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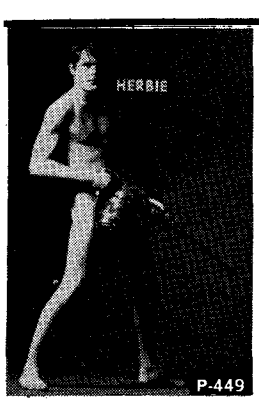

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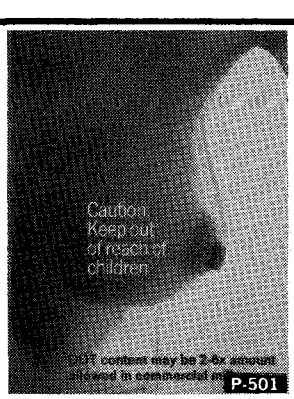

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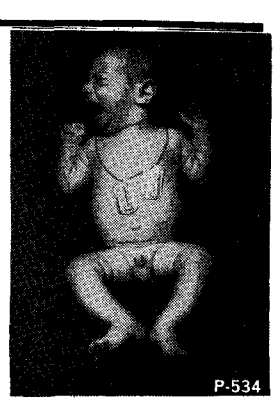
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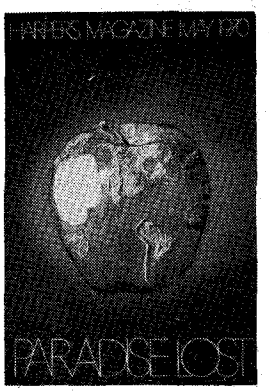

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Nixon's Tin Ear

The 17-year locusts began emerging in my rosebushes about the time Mr. Nixon told the nation he would go into Cambodia. At first it was hard to identify what was happening; a series of round holes appeared in the clay – scores of them, and I had no idea what they were. Then the drone started and has gone on ever since. Individually the locusts are small and insignificant but there are thousands and millions of them; collectively every Washington suburb (and up and down the East Coast) hears the strange vibrant monotone. At first your ear isn't attuned; you don't hear it; then you ask why the odd quiet uproar doesn't go away – sometimes the pulsating undertone becomes ominous. As boys, we put our ear to the rail and could hear the train a mile away; not a note but a kind of vibration; a warning.

A strange thing is that people coming out of air-conditioned homes, like apartment buildings or maybe the White House, haven't heard the sound at all. It is inaudible in the city; they wonder when you tell them about it. But it is there, all right.

There is another ominous undertone in the Washington atmosphere these days besides the locusts' hum; it is, to change the metaphor, bad news for America. One tries to be cool and objective about it; this is too serious for spite, or exaggeration. But the fact is evident everywhere that the Nixon Administration is in bad trouble and that is grave news for all of us. The matter can be put in various ways: the Administration has lost touch with parts of the public; it has miscalculated; it is out of tune; it has a tin ear – yes, that's it, it has missed the sound of the locust.

Great American Presidents are the ones who know what the people want even before the people. Look at the Gettysburg address. Lincoln was telling an agonized people what it had to believe to go on – that its sacrifice was worthwhile, that its aspiration was noble. We can't have many Lincolns. But any successful President must have an instinct for the public mood. This Administration, alas, shows signs of deafness. It shows signs of coming apart.

The evidences of a jittery nation are everywhere, no use to go through the list again. Student unrest, racial unrest, economic disturbance – and the war continues. Whatever Mr. Nixon thought to do with the economy, it hasn't worked. There has been an erosion of $250 billion in paper values on the stock market since he took over.

This sounds like a partisan attack on the Administration but it is not so intended. Mr. Nixon didn't start the war – he inherited it. He didn't start the inflation, either. That began when Congress and President Johnson failed to raise taxes adequate to pay for the war. More recently, it is the Democratic Congress that turned a "tax reform" bill into a tax-cutting spree. Now some Democrats are gleefully rubbing their hands over the whole mess.

Unfortunately, a jittery America is a world problem. The international payment system, for example, is based very largely on dollars; but how long will Europe stockpile inflationary dollars? Then again, America is becoming so divided that its credibility as a military bastion of the West is coming in question: in the Middle East, say, where our institutional stake is enormous compared to Southeast Asia where it is minor (or so it seems to me).

The Administration's confusion is indicated by backbiting and infighting among its very members. Secretary Finch is undercut and humiliated. Secretary Hickel can't see the President. Secretaries Rogers and Laird are caught by surprise by Cambodia. Secretary Romney, and Arthur Burns of the Fed, disagree on economic controls with Treasury Secretary Kennedy and Attorney General Mitchell (who somehow gets into everything).

Meanwhile there are continuing resignations, and a really quite extraordinary number of protests from civil servant groups inside federal departments, roused out of their customary sheep-like docility by a kind of locust drone of anxiety. What would headline writers of 17 years ago make of this? – 250 State Department employees protest Cambodia; 65 civil rights lawyers in the Justice Department protest softening of school desegregation; 2000 Health, Education and Welfare employees petition Secretary Finch to take a firmer stand on civil rights. No, these are not normal times; Congress fairly crawls with pleading undergraduates . . . these are very extraordinary times indeed.

This is no blanket indictment of an Administration; for example, so far as I am concerned Mr. Nixon's drive for a guaranteed national income through his Family Assistance Plan is still splendid and astonishing. The Nixon Administration is the only boat we have for the next 30 months, anyway. If it founders we all drown. And yet there are certain things which I would not have expected from an ordinary politician, attuned to his era. I would not have expected him to watch football on television while 250,000 war protestors milled outside. I would not have expected him to drop the use of moral suasion as a tool to halt excessive inflationary wage-price increases ("jawboning"). I would not have believed he would have failed to make greater efforts to placate 20 million blacks. I would not have supposed he would loose Mr. Agnew on the nation, to churn up anger and resentment at a time of crisis. I would not have supposed that he would send troops into Cambodia at this juncture and crisis without consulting the Senate in advance. Maybe one or two of these things are explicable but not all.

I expect Mr. Nixon is going to pull US troops out of Cambodia this month and claim a great victory. He listened to military advisers, discounted civilian warnings, went into isolation and made his solitary decision. From the Pentagon viewpoint he may even be right. But at what a cost. Turning Vietnamese loose in rival Cambodia is like turning Arab guerrillas loose in Israel. He has spent a fortune of political capital. There is suspicion of vacillation even so, in limiting, after the stunning protest, the great "clean-up" to 21.7 miles and two months. We shall hear the locusts humming for some time.

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The War-Making Power

A majority of the Senate Foreign Relations Committee wants to end Mr. Nixon's Cambodian venture in no uncertain terms, and has said so legislatively by approving, 9-5, the Cooper-Church amendment. Many other senators, haunted by those awful figures of more than 42,000 dead and 277,000 wounded Americans, want to end participation in the Indochina war altogether by June 30, 1971, and they mean to say so legislatively through the McGovern-Hatfield amendment to the Military Procurement Authorization Act, which now has 23 co-sponsors. The Nixon Administration resists both initiatives on various policy grounds – none of them too clear, because the Administration's objective and strategy in the Indochina war are none too clear – and on the constitutional ground that such measures as these would be unlawful intrusions by Congress upon the President's authority as Commander-in-Chief. This latter argument is clear enough, and clearly wrong.

There is little doubt about how the framers of the Constitution understood the division of war-making power between the President and Congress. They did not want the President to have the war-making authority of the British Crown, and they made provision, therefore, that Congress should declare war. They did want the President as Commander-in-Chief to be able to respond to attacks without having to go to Congress first, and that is why, quite deliberately, they chose the word "declare" rather than "make" in writing the clause that empowers Congress to "declare war." Even so, they were wary of standing armies as an executive instrument, and so they authorized Congress, not the President, to "raise and support armies," and then provided that no appropriation of money to raise and support armies "shall be for a longer term than two years." The President is thus plainly limited.

We have become accustomed, however, to Presidential actions going well beyond the limits implicit in the text of the Constitution and in its history. And practice long acquiesced in, not only text and history, goes into making the law of the Constitution under our system. It can be strongly argued that not even the customary constitutional law arising out of the practice of a century supports President Johnson's independently taken decision to go into full-scale combat in Vietnam in 1965. The Tonkin Gulf resolution of August, 1964, on

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which LBJ used to place voluble reliance, but which the Nixon Administration has virtually disowned, is cast in grand and vague language. It was passed without serious debate and in response to a small incident; it either meant very little, as Senator Fulbright claims, or it meant so very much as to constitute more than Congress can be fairly assumed to have intended. At any rate, if Congress could pass the Tonkin Gulf resolution, it can certainly repeal it, and that effort is going to be made.

The relevant point in the current controversy is that neither text nor history nor custom, nothing in the practice of the past, supports the proposition that Congress lacks power to take into its own hands the decision of where and for how long to make war. "Commitment of large numbers of troops for an indeterminate length of time to a war in a far-off land," Senator Symington remarked last week, "is not the sort of decision which the Constitution delivers to the sole discretionary power of the President." We know that Presidents have acted in the past when Congress has either said nothing one way or the other, or has acquiesced. But there is no basis for concluding that if Congress does choose to act it may not, or that the expressed will of the legislators on questions of war and peace does not override that of the President. The President may veto legislation, but if Congress can summon two-thirds majorities in both Houses, its will prevails. That is the constitutional position.

What Congress may not do is to try to exercise command over troops in the field. That is the President's prerogative as Commander-in-Chief, and it means that after Congress has told him, if it has, where and whom to fight, he controls the tactical decisions. And always he may repel attacks. But his power to repel attacks is not a power to figure out where in all the world an enemy he faces draws support from, and then go and fight there, or else the authority of Congress to decide where and whom we should fight lacks all substance. If Congress is supine; if it has said nothing – as it said nothing in the Korean war, and as it so far has said nothing about Indochina (but has about Thailand) – the President will move into the vacuum and define for himself both the enemy and the theater of combat. But if Congress, at long last does its duty; if it assesses the risks for itself and accepts them and says whom to fight and where, Congress has the last word, and the President's independent authority is at an end.

Not only the Church-Cooper amendment, halting virtually all combat by American forces in or over Cambodia, but the McGovern-Hatfield amendment, ending combat by American forces in Laos as well, after December 31, 1970, and in Vietnam itself after June 30, 1971, are entirely lawful exercises of a constitutional power of Congress that has lain too long in disuse, but that has lost none of the legitimacy originally conferred upon it by the Framers.

Dear Senator . . .

Rarely has the Senate been bombarded with so many letters, telegrams, petitions and postcards as since the President's April 30 speech on Cambodia. Eighty-five of 100 Senate offices visited report receiving the highest volume of mail since their senator has been in Washington. An analysis from each senator's state – Hruska (R, Neb.) and Smith (R, Me.) refused comment on what they have been hearing from the folks back home – shows that letters to Democratic senators as a group are running 10 to one, (Republicans about 4-1) against the President. The four offices receiving the heaviest anti-mail are Republican: Brooke, Mass. (43-1), Javits, N.Y. (41-1), Scott, Penn. (41-1), and Goodell, N.Y. (39-1).

Of the nine senators getting more *pro* than *con* mail, seven are from the South (Goldwater, R, Ariz., and Dole, R, Kans., are the exceptions). Despite this apparent Southern support, however, twice as many Southern senators (14) are receiving more mail against than for the Cambodian incursion. Even in the nine offices where the mail generally is favorable, support for the President is never greater than 2-1. Opposition is highest in the Northeastern states.

Many of the letters are unusual in their depth of feeling. People are "shocked" or "profoundly dismayed." Letters are longer, more personal, more anxious. As one staff put it: "People want to share their views on this issue; they are very worried."

The number of telegrams is a fair indication of the felt urgency. On an important issue, about 10 percent of mail to senators customarily is in the form of telegrams; on Cambodia, the average is closer to 30 percent. Nearly every office emphasizes the volume of letters from persons who are writing Congress for the first time, and especially the volume from young people, mostly students. The student mail is virtually unanimous in opposition. Still, nearly half the mail is from adults; it, too, largely opposes the invasion.

For several reasons the mail's impact may be less than one would expect. Some offices don't keep accurate tabs of what comes in (one aide to a well-known Southern senator guessed it was running 4-1 for Nixon, then after an accurate count, was astonished to learn it was actually almost 2-1 against). The huge quantities of out-of-state mail are seldom considered, even by those who do keep count. Much of the mail is going to liberal senators who don't need convincing. Form mail and cryptic messages (such as PEACE) have little effect. Most importantly, mail alone does not determine a senator's views. Party loyalty, personal convictions, floor debates, hearings, economic pressures, and press reports are also influential.

Nevertheless, mail is still part of the calculus of decision, and when it is extraordinary in size, intensity, and spontaneity, its impact cannot be ignored.

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Arms Runaround

As part of its plan for containing communism the Pentagon has provided arms to people at the opposite end of the political spectrum from communism, like the Latin American and Greek military. But because domestic public opinion likes to think of this country as the arsenal of democracy, Congress tried, in the Foreign Military Sales Act, to prevent arms going to "military dictators who are denying social progress to their own people." How much heed the Defense Department pays this proviso is indicated by the continuing arms flow to the Brazilian junta, the Greek colonels and Chiang Kai-shek. Some senators want the legislation amended so as to disallow weapons to those who deny their people "the growth of fundamental rights or social progress," a semantic variation that ought to be good for a laugh in the Pentagon.

Congress has been in hot pursuit of the Defense Department's military giveaways since Rep. Silvio O. Conte (R, Mass.) discovered last year that the Pentagon had supplied the "Republic of China" with $157-million worth of arms and other military equipment, under a program for disposing of surplus weapons. This was more than six times the amount Congress had approved as military aid to Taiwan. The secret gift package included four destroyers. 35 F-100 Super Sabre jets, 20 F-104 Star fighters as well as Flying Boxcars, tanks, howitzers and thousands of M-14 rifles. It was the Pentagon's revenge on the Senate for refusing to go along with House approval of $54.5 million for a Phantom jet fighter squadron for Chiang Kai-shek. Both the Pentagon and the State Department gave as their astounding justification the complaint that Congress had recently cut the military assistance program appropriation. Substituting "surplus arms" could be an appallingly successful tactic, for it is estimated that withdrawal of US troops from Vietnam might make available, as "surplus," about $10 billion worth of weapons. Some senators therefore are proposing a $35-million ceiling on the annual value of arms given to foreign nations out of military surplus.

Trying to tie down the Pentagon is like attempting to secure tent ropes in a high gale. Under the foreign aid program, for example, military grants require annual authorizations and appropriations. But before it worked its 1969 ploy with arms surpluses, the Defense Department had been working another, until 1967 when it was found out. It had the Export-Import Bank make blind loans to "X countries." The Pentagon then furnished arms to countries of its choice and guaranteed the Bank up to 25 percent of the loans through a revolving fund. Congress short-circuited that one, abolishing the loan guarantees and forbidding the Export-Import Bank to finance arms purchases. But not before more than $600 million worth of arms loans had been made to underdeveloped countries. This country still sells about $2 billion of arms abroad each year. Europe and Canada account for about half and Asia for most of the remainder. The amounts of sales to India and Pakistan, and to Israel and Jordan, Lebanon and Saudi Arbia are "classified." Recently it was reported that Turkey was planning to send American tanks to Pakistan and the Pentagon would supply the Turks with more modern ones. Senators have proposed another amendment to the Foreign Military Sales Act, to prohibit such transfers. But the Pentagon's contingency planners doubtless are this very moment figuring out new ways of getting around such restraints. The Department says frankly that "the Military Assistance Program serves as a key instrument of the Nixon Doctrine." So when total obligational authority is inadequate to support the Doctrine, "efforts along other lines" are made to "augment the amount of materiel which may be used to increase that support."

Antiwar Candidates (II)

More candidates for the House of Representatives who "favor rapid withdrawal of US military forces from Indochina and the setting of new, nonmilitary priorities in allocating our national resources" have come to our attention.

South Carolina: 6th District – *Claude Stephens* (D), Route 3, Box H, Kingstree; and *Olin B. Sansbury* (D), 412 Sheffield Drive, Darlington. Mr. Stephens is black, Mr. Sansbury white; both are trying to unseat Rep. John McMillan. There are two primaries – June 9 and a runoff on June 23. **Virginia:** 8th District – *Darrel Stearns* (D), 1670 Chimney House Road, Reston. Mr. Stearns has a primary fight on July 14. **Minnesota:** 3rd District – *George Rice* (D), 14203 Woodhaven Road, Hopkins. **New York:** 35th District – *Harvey Bates*, 330 Ostrom Ave., Syracuse; 21st District – *Herman Badillo* (D), Grand Concourse Plaza, East 161st St., Bronx.

Additional House incumbents (all have endorsed House Resolution 1000 to put a clamp on expenditures for Indochina) are: **Minnesota:** 8th District – *John A. Blatnik* (D), 412 Federal Bldg., Duluth. **California:** 4th District – *Robert Leggett* (D), 1522 Tennessee St., Vallejo. **Pennsylvania:** Fourth District – *Joshua Eilberg* (D), 1522 Long Shore Ave., Philadelphia. **Indiana:** 11th District – *Andrew Jacobs, Jr.* (D), c/o Mrs. Julia Carson, 222 East Ohio St., Room 601, Indianapolis. **Massachusetts:** 7th District – *Torbert Macdonald* (D), 63 Appleton St., Malden. **Rhode Island:** 2nd District – *Robert O. Tiernan* (D), 307 Post Office Annex, Providence. **New York:** 33rd District – *Howard W. Robison* (R), 2 North Avenue, Owego. Because of redistricting, *James Scheuer* (D, N.Y.) is running in the 22nd District.

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Commotion at GM

No one expected the "Campaign to Make General Motors Responsible" would bring GM management to heel in the voting at the shareholders' meeting on May 22, and, while this went quite as predicted, the brass at headquarters have no reason for complacency and they know it. Campaign GM, undertaken early this year by four young attorneys loosely allied with Ralph Nader, has been an effort to "tame GM" from inside through a minority stockholders' action. The immediate goals were to open up GM's club-like board of directors, to make an audit of the company's handling of social and environmental problems, and to show that the stockholders' meeting is a charade.

With the help of the Securities and Exchange Commission, the Campaign GM staff, which owns only 12 of the 285 million shares of General Motors now outstanding, got management to include two campaign proposals in the proxy statement that was mailed in April to shareholders. These called for an expansion of the 23-member GM board by the addition of three "public" directors and for the establishment of a shareholders' committee for corporate responsibility. Nearly all of General Motors' 1.3 million stockholders habitually vote with management. This is as true of the small shareholders as it is of the large institutional investors such as banks, isurance companies, pension funds, and universities. The hope of the Campaign GM staff was to pressure GM to accept the proposed reforms by persuading major universities and other prestigious institutional shareholders to endorse them. While this tactic has been more successful than may at first seem evident, it did not prevent management from defeating the proposals by rolling up the kind of lopsided majorities common in People's Republics.

Few people – including reporters familiar with every branch and level of government – have given a thought to the way in which the great corporate "subgovernments" are run. But because of Campaign GM, some 130 journalists attended this last General Motors shareholders' meeting, which normally would have been covered by only a few dozen business and financial writers. It was a healthy change. With its nearly 800,000 employes, its enormous production of goods and consumption of materials, and its 1969 gross of $24.3 billion (greater than the revenues of every nation except the United States and the USSR), GM is at least as worthy of public attention as, say, the Republic of Korea or the State of California.

Had its proposal to enlarge the board somehow won shareholder approval, Campaign GM would have nominated as public directors Betty Furness, who was President Johnson's consumer adviser; the Reverend Channing Phillips, Democratic National Committeeman for the District of Columbia and the first Negro ever put up for nomination for President at a major party convention; and Rene Dubos, prominent biologist and environmentalist. The GM management took the position that such directors had no place on the board because they would serve as spokesmen for "special groups," its term for consumers, black people, and those who like unpolluted air and water.

Management's own slate of directors, the only slate offered to shareholders in its proxy statement, was elected in pro forma fashion. Campaign GM spokesmen such as Philip Sorenson, former lieutenant governor of Nebraska and chairman of the Project for Corporate Responsibility (the campaign's parent organization), argued that it was a mockery for management to talk of special interests. The board as now constituted was described as a "lilly-white social fraternity" of men drawn almost exclusively from the top ranks of industry and finance. Indeed, 11 of the 23 directors are top officials or former officials of General Motors itself, which makes the board more management's own creature than an independent body elected by shareholders to serve their interests and the interests of the general public.

Management was challenged by Campaign GM on its failure to inform shareholders that two former directors, Richard K. Mellon and Albert Williams, who were also directors of major oil companies, had left the board after the Justice Department's antitrust division had raised questions about interlocking directorates. While Mellon was approaching retirement age in any event, Williams was not, yet management had said his resignation was "reluctantly accepted." "Why, in your proxy statement, did you lie?" demanded Joseph N. Onek, one of the Campaign GM coordinators, in a sharp exchange with James Roche, GM board chairman. Roche acknowledged that there had been pressure from the Justice Department, but insisted that "we have been completely honest with our shareholders."

Roche was no more responsive later when asked why the board included no black members or women.

Perhaps the most revealing information to come from the meeting was Roche's acknowledgment that the board is not consulted on a number of important matters affecting the public interest. Questions such as the hiring and promotion of minority group members and the awarding of dealerships (fewer than 10 of GM's 13,000 dealerships are held by blacks) have been treated as day-to-day operational matters not requiring board consideration. And on 1969 model cars management cut the warranty terms in half for many components without consulting the board. The overriding impression one gets is that board meetings are amiable affairs at which the directors ratify decisions already reached by management, and not necessarily the most important of those. General Motors has, of course, taken major steps to produce safer and less polluting

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automobiles and it is one of the nation's largest employers of Negroes. Nevertheless, it is absurd during this period of national soul-searching and unrest for the board not to be reviewing the adequacy of the company's response to social and environmental issues.

Campaign GM, while it cannot yet claim to have tamed General Motors, has prompted many institutions – especially universities such as Harvard, MIT, Yale, Princeton, Michigan, and Stanford – to question their habit of looking at their investments in purely financial terms. This is true even though no major university or foundation voted its stock in favor of the campaign proposals. A number of universities and other institutions were under substantial pressure to support the campaign proposals – pressure that would have been heavier yet had the Cambodian invasion and the Kent State shootings not preoccupied student attention in the weeks just prior to the GM meeting. Some institutions, to show sympathy for Campaign GM objectives, withheld their votes from management or exhorted management to make a greater effort to meet its responsibilities to the public.

MIT took an action which in itself could make for change, if only because two of its officials – James R. Killian, Jr., chairman of the MIT Corporation, and Lloyd D. Brace, a Boston banker and Corporation member – are GM directors. The MIT Corporation executive committee decided by a "very narrow margin" not to support either of the Campaign GM proposals, but it urged GM to diversify the membership of its board and to appoint an advisory committee on social responsibility. (The committee contemplated in the Campaign GM proposal would have been selected by a panel named jointly by GM, the United Auto Workers, and Campaign GM.)

Institutions that did support either one or both of the Campaign GM proposals included Brown, Amherst, Antioch, several church groups, and – of special significance given the mounting public concern about air pollution – the New York City pension funds. It had the endorsement of more than a score of congressmen (including Edmund Muskie and Edward Kennedy). This campaign for corporate reform is coming none too soon. The burning of the Bank of America by students at Santa Barbara was only the most conspicuous recent display of widespread student disdain for big corporate enterprise. University administrators and trustees cannot afford to discount this. Neither can officials at GM. At a press conference after the annual meeting, Roche was unusually reflective for a man who had just won 97 percent of the votes. "I don't think we won a victory," he told newsmen. "We won a vote of confidence. We could lose that vote of confidence very quickly unless we respond in the way our shareholders expect us to."

Luther J. Carter

MR. CARTER *is a writer for* Science *magazine.*

A Palace Revolt?

A conversation with a soldier of the 519th Military Police Battalion, the most elite Army riot-control unit between Washington and New York, raises the question of how much longer President Nixon can rely on his troops. Dissidence among troops both in Vietnam and at home is, of course, no secret. The talk of refusing to board helicopters bound for Cambodian operations aired on national TV a month ago, is an example. But with the March on Washington May 6 in the aftermath of Kent State, the dissidence of stateside troops surfaced on the matter of whether they would fire on students if given the order. The answer of half of the 519th was reportedly no. And the 519th was the unit assigned responsibility (but never called on) for the last line of defense at the South perimeter of the White House in the event of a charge.

The debate among the 519th MPs was touched off by briefings given before and after they deployed from Ft. Meade, Md. to the basement of the Interior Department, three blocks from the White House, the night before the demonstration. In platoon meetings on Friday and the Saturday of the demonstration the troops were told that the high command of the task force charged with defending the White House would give the order to fire on the crowd if the 519th suffered only *two* casualties. Further, the troops were told that the company commanders of the three 519th companies, numbering over 500 men, had in turn been authorized to give the order to open fire, if their companies sustained two casualties. The troops were not told, however, what the task force command or the company commander would consider a "casualty."

This information, according to my informant, split the 519th down the middle. Half the troops in their discussions over poker in the Interior Department basement, said that they absolutely would not fire, and clearly preferred to be on the other side. The only way some of this element could imagine firing was a "chain reaction": "you're rushed, rocks are flying, people are firing on both sides." The risk here is that if a shot goes off, others down the line might assume the firing soldier got an order which the others hadn't heard.

The remaining MPs looked with enthusiasm at the chance for a confrontation. They wanted action. They felt no identification with marchers, and hoped they would be called upon. This sentiment was encouraged by a 519th company commander the day before the demonstration, when he told his men that they would have had the weekend off if it had not been for the hippie protestors. He had it from battalion, the CO continued, that some 50,000 to 70,000 demonstrators were going to try to take over the White House.

The implication for future Kent States of this mix of loose conditions under which fire will be authorized, the split in sentiment of riot control troops, the psy-

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chological whipping up before a confrontation, and the specter of a chain reaction, is frightening to consider. It raises not only the possibility of more massacres as the pressure on the war policy, particularly in the fall campaign, takes on a more violent character, but also raises the harrowing possibility of troops squaring off against troops. Nothing is less predictable than what will happen under the pressure of this new, more subtle form of domestic combat that American troops are being forced into. The risk factor, and the chance of mistakes, is fantastically high. And it is the highest with National Guard troops, where the sentiments may be the same as in the 519th, but where the training and the discipline are bound to be slacker.

One item that raises this risk is Order No. 3 of the eight "Special Orders for Members of the Armed Forces Engaged in Civil Disturbance Operations." These special orders must be carried on the person of all riot control troops, and the troops are required to rattle them off if asked by a superior. Order No. 3 reads: "I will not load or fire any weapon except when authorized by an officer in person, when authorized in advance by an officer under specific conditions, or when required to save my life." It is this last phrase – the authority to fire if a soldier deems his life in danger – that was used in justification by some Guardsmen interviewed after Kent State. One soldier, to back up his argument that their lives were in danger, told of a guardsman whose knee cap had been shattered by a wrench. Thus, you have a situation where not only is it left to a company commander to define what constitutes a casualty, and thus, order a volley on a crowd, but it is also left to the individual soldier to determine what constitutes a threat to his life, and thus, fire on his own authority.

Whether there was an order, or a chain reaction, or an individual soldier's action at Kent State is not clear, but the explanation offered by Sen. Stephen Young of Ohio that a shot was accidentally triggered by a rock or a brick hitting a guardsman is, according to the 519th MP, impossible. "Anyone who has had one day of riot training," he said, "knows that a rock can not accidentally trigger a shot. Over and over you hear the statement: 'Don't chamber a round until you're given the order to fire.' " In other words, for a bullet to enter the rifle chamber from the clip underneath, the soldier must execute the act of pulling back the bolt to force a bullet into the rifle chamber. Only then could the rifle be fired, intentionally or accidentally.

As we sipped beer only four hours after the 519th had given a demonstration of riot control devices and techniques at "Riotsville" on Ft. Belvoir, Va., to a graduating class of the FBI school, one soldier commented: "The scary thing is that one person, an Oswald or a Sirhan, could touch off a massacre in a demonstration. Even if only 250 of 500 men in a battalion fired at the crowd . . . man, you can kill three or four people with one round of an M-14 at close range." Such is the potential for legalized violence nowadays. When significant numbers of the most elite American troops are questioning Cambodia, Kent State, and their own participation in the Nixon policy, no one can be sure anymore of exactly how the palace guard will react in future confrontations – confrontations that will become more frequent and violent unless the Nixon-Agnew tack is reversed.

James B. Reston, Jr.

MR. RESTON *served in the Army, 1965-'68. His first novel,* To Defend, To Destroy, *will be published next February by Norton.*

The Nixon Watch

Paying for Integration

It is a pleasure to report that Mr. Nixon has come up with something good. His message of May 21 on public school desegregation, the accompanying Emergency School Aid Act of 1970, and his request for $1.5 billion in extra money over the next two years to help with the elimination and, where that is impossible, the diminution of racial separation in the schools are blows for justice and decency in a field where the President and his Administration have not until now been distinguished for either quality. This could not be said with confidence if the President's words on the subject were all that there is to go by. But there is more, in the form of real action by the principal agencies of federal enforcement, the Department of Justice and the Office for Civil Rights in the Department of Health, Education and Welfare. Beyond question, they are moving with hitherto missing vigor against the remnants of deliberate (*de jure*) segregation in the South and are trying to come to grips with the more difficult problems of circumstantial (*de facto*) racial separation and discrimination in public schools elsewhere.

Manifestly, in view of the Administration's past record of equivocation and disgraceful catering to racial prejudices in its dealings with the problems of segregation and integration in the public schools, some important changes must have occurred if the foregoing judgment is correct. There have indeed been changes, outside of and within the Administration, and a review of them is necessary if the present stance is to be understood. Virtue in this matter has been forced upon the Administration, a fact that may be stated and kept in mind without denying Mr. Nixon and his concerned subordinates all credit for at last recognizing both the necessity and the potential politi-

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cal rewards of doing what the law, the courts and even the dimmest understanding of the national good require them to do.

The decisive change occurred last October when the Supreme Court ruled, after 15 years of putting up with persisting segregation in Southern schools, that what remained of it must be ended "at once." That decision, expanded in subsequent court findings to require an end to Southern school segregation by this fall at the latest, set in train a series of revised calculations within the Administration that is still in process. Attorney General John N. Mitchell, who had brought the October decision upon himself and the President with a cynical and foolish request that the Supreme Court permit a further delay in the integration of Mississippi schools, was impelled in indirect consequence of it to abandon the position that until very recently governed the Administration's approach. This position was that executive enforcement of school integration, by depriving segregated schools of federal funds as required by Title VI of the Civil Rights Act, was both unnecessary and politically silly. Why continue to anger and alienate white Southerners, he argued, when the onus for enforcement could be shifted to the courts by initiating suits instead of cutting off federal money from districts that, once under court order, would get their federal funds whether or not their desegregation plans satisfied HEW? The last thing he expected was the Supreme Court's October ruling in circumstances that his own lawyers had brought about.

The result was that the political profit from judicial rather than executive action vanished. Mr. Mitchell's restraining hand was lifted from HEW's Office for Civil Rights, and it and his department's civil rights division are again permitted to work in effective concert, with a combination of court and administrative action. HEW Secretary Robert H. Finch was able to say in good conscience, as he did on May 18, that "the Administration is committed unequivocally to the enforcement of Title VI," and to resume the termination of federal funds for holdout school districts.

The Administration was still adjusting to the consequences of the Supreme Court's October decision when, in February, Mr. Nixon put Vice President Agnew at the head of what has since come to be called the Cabinet Committee on School Desegregation. One of the ironies of the Nixon time is the fact that this outfit, initially intended to make the final and unavoidable phase of school integration as palatable as possible to Southern segregationists, became the vehicle for producing the President's May 21 message and legislation. The message was drafted by the White House staff, principally by Special Consultant Leonard Garment and one of Mr. Nixon's more enlightened writers, Raymond K. Price Jr., and the legislation was prepared in the main at HEW. But the program had to be thrashed out within the Cabinet committee before the President would accept it, and that required an improbable consensus among such figures as Attorney General Mitchell, Postmaster General Winton Blount, and Agnew on the one hand, and Secretaries Finch and George Shultz, the committee's vice chairman and active head, on the other.

The basis for consensus, the factor that made it possible, is perfectly clear, although it has been obscured by the subsequent claim, natural enough in the circumstances, that a fundamental affinity for social decency on the part of the President and his advisers accounts for it. The determining fact is that the President, the Cabinet committee, and the various assistants and consultants who had a hand in the outcome found themselves in a situation where decency was bound to pay off. The South's remaining segregated schools had to desegregate, the Supreme Court and the lower federal courts had made further delay impossible, and the Administration had no practicable choice but to make the process as acceptable and rewarding as it could. Most of the requested $1.5 billion in special funds – $500 million in the next fiscal year, $1 billion in fiscal 1972 – is earmarked, Congress willing, for Southern school districts that are integrating now or have integrated in the past two years. Token amounts, so small proportionately that HEW and White House spokesmen refused to specify them, may also go to urban and non-Southern districts with predominantly black and other minority school student bodies. But the chief and declared objective is to reward while helping the white South in its enforced surrender to integration.

It is true, however, that other sections are not altogether neglected. Mr. Nixon exaggerated when he said in his May 21 message that "more than 500 Northern districts are under review or likely soon to be under review for possible violations of Title VI." HEW's Office for Civil Rights can cite at the most 38 to 40 "active cases" of suspected discrimination in non-Southern school districts, but it and the Justice Department are moving where they find actionable evidence of deliberate segregation outside the South. Stanley Pottinger, the young Californian who replaced the fired Leon Panetta as head of OCR, has just notified school districts with substantial numbers of Puerto Rican, Mexican-American and other non-English speaking students that they will lose their federal funds unless they end forthwith the kind of lingual discrimination described in this journal's previous issue. Some of the extra money now requested by Mr. Nixon may go to such districts for hiring bilingual teachers and consultants, and more is intended for school systems that undertake either to diminish *de facto* black-white segregation or to ameliorate the educational harm done by racial isolation arising from community housing patterns. A small staff of consultants, among them Professor James Coleman of Johns Hopkins University, is working with the Agnew committee to formulate

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valid criteria for the granting and use of all the new money, whether among the primary Southern beneficiaries or among school districts elsewhere that qualify for supplementary aid. The program took a month longer to fashion than Mr. Nixon had expected when he ordered its preparation on March 24, and one of the reasons for delay was that the men who put it together realized as they went along that they were evolving something more than the "emergency" approach called for by the President. Out of the sordid beginnings of this Administration's handling of the racial aspects of public education, a more enlightened attitude than anyone had a right to expect has emerged. Senator Walter Mondale of Minnesota, chairman of a select committee on equal educational opportunity, was justified in saying that the new Nixon program "is certainly not sufficient to repair the damage done to the cause of integrated education over the past 16 months." But the damage done has been acknowledged, indirectly, and the need to repair it has been recognized.

John Osborne

In the Wake of the Invasion

Cambodian Civil War

by Orville Schell

We now see that the Cambodian invasion, far from being a "brief surgical operation" quickly performed and done with, has opened wide a new and dangerous fissure. Tad Szulc in *The New York Times* of May 20 reports "senior officials" in Washington as believing that "in some ways the situation in Cambodia was beginning to resemble South Vietnam in 1960 when the Vietcong began their rebellion against the Saigon regime." George McT. Kahin, director of the Southeast Asia program at Cornell, puts it more bluntly: "President Nixon has contributed to the creation of a formidable anti-American alliance in Cambodia, making a long civil war in that country inevitable."

Until the coup in March, the Cambodian body politic existed in a precarious balance with Prince Sihanouk in the middle. To his right stood the former (and present) Premier and Minister of National Defense, General Lon Nol. He was chief of the 35,000-man Cambodian Army which was largely trained and partially equipped under US military aid amounting to some $94 million up to 1964, when Sihanouk requested that it be stopped. Although Lon Nol made trips to both Peking and Hanoi for Sihanouk, he was known for his "anti-Communist" and "pro-Western" feelings. He reportedly traveled to the Communist capitals in attempts to persuade Hanoi and Peking that the NLF and the North Vietnamese Army (NVA) should leave their Cambodian base camps. Although he did not always agree with Sihanouk, Lon Nol was included in various cabinets as a balance against the left. Sihanouk used him as a kind of warning to the Cambodian Communists not to push too hard against his own, middle-of-the-road, poorly organized Sangkum Party, which he formed hastily when he abdicated the throne in 1955.

To Sihanouk's left were the Khmer Rouge, whom he played down as much as possible, and of whom the American press has chosen to take almost no notice. The Khmer Rouge (or Red Khmers) have not been a strong force numerically in past years, but they served to point up the fact that Cambodia, although not at war, had by no means remedied the plight of the peasant or of rural government. Their numerous, but usually inconsequential, attacks on government troops were an annoyance, but less important (although the Sihanouk government claimed to have killed some 300) than the de facto control they exercised in parts of the rural hinterland, particularly around the vital ports of Sihanoukville and Kep on the southern part of the Cambodian-Vietnamese border. The NLF has been getting supplies to its troops in the Mekong Delta region in South Vietnam through these ports. Apparently Sihanouk was unwilling to move into this area and clean up the NLF operations, because it would have risked a major clash with indigenous

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Cambodian forces. Lon Nol did not share these apprehensions and always favored a hard line against both NLF and Khmer Rouge activities.

The Khmer Rouge, who now operate in some five different districts in Cambodia, were formed of remnants of the old Cambodian Vietminh (never very strong due to the rather pro-French stance of Sihanouk), disaffected teachers and student intellectuals, former elected officials and a peasant following of undetermined size. Estimates, until recent weeks, placed the total number of Khmer Rouge at around 3000. From leaflets left in villages through which they have moved, it is known that they want to "liberate Cambodia from the Americans," that they are scornful of religion (Buddhism), critical of police and army extortion of the peasantry, and corrupt government monopolies. Various factions of the Khmer Rouge have been so isolated from one another that they have not had any unified program. Their two main bases adjacent to Tay Ninh Province, in Svay Rieng and Prey Veng, have been closely allied with the NLF. These Khmer Rouge have harassed not only Cambodian government officials, but have joined the NLF in sorties into South Vietnam.

But there are other Khmer Rouge to the west of Phnom Penh who have been more independent. Their base camps stretch from the Thai border down along the Elephant Range to the coastal ports at Kampot. They are led by Hou Youn, who is described by US intelligence sources in the *Far Eastern Economic Review* as a "man of truly astounding intellectual and physical strength." Hou Youn is an ex-National Assemblyman who was expelled from Phnom Penh during Lon Nol's crackdown on Communist activities in 1967. Demonstrations followed Lon Nol's severe treatment of peasant rebels in Battambang Province, who were said to be led by Hou Youn and the Khmer Rouge. As a result Lon Nol became the *bête noire* of Cambodian leftists, who have since branded him as "an American stooge."

Interestingly, neither wing of the Khmer Rouge ever criticized Sihanouk by name, which does not mean that Sihanouk did not oppose their activities. Thus, in June of last year he commented that "the Vietcong fight a foreign imperialism in order to liberate their country in order to give it independence. They are furthermore supported by the South Vietnamese people while receiving no instructions from foreign organizations, whereas the Khmer Reds fight their country's government which is known by the whole world to be the guardian of national independence and nonalignment and to derive its power from the people through general elections. The Khmer Reds kill their own compatriots and are in the pay of either Maoism or the Vietminh." In an interview in February, 1969, Sihanouk said: "Leaflets scattered around by night announce the formation of self-styled clandestine Communist 'parties' or 'movements.' We do not know how many members they have, but very few in any case. I do not think that China 'controls' these grouplets, although Chinese activists in Cambodia give them assistance."

Officially, China had been chary about giving any support of an official nature to the Khmer Rouge. In past years there has been no mention of their activities in the *People's Daily*. The Chinese chose rather to support Sihanouk, even extending him a rather generous aid program.

In a sense, then, Sihanouk was the fulcrum point between the contending leftist and rightist, or pro-Western and Pro-Communist forces. With Lon Nol's coup and the US invasion of Cambodia, all that changed. Cambodia is polarized: Lon Nol and the Army (with American aid) on the right, and the the Khmer Rouge (with Hanoi and NLF aid) on the left. Cambodia has become an annex of Vietnam both politically and militarily. Sihanouk has been forced to join friends where he finds them. And from exile in Peking, his alternatives are few. He has turned to the Khmer Rouge, his erstwhile enemies. Their movement, which had been small and almost unrecognized on the international scene, now has a leader of stature, the only man who has the prestige to rally the Cambodian peasants behind any mass movement. The Khmer Rouge has been rejuvenated.

On April 17, *Le Monde* reported in a headline that in Svay Rieng, already "peasants appear to be joining the ranks of the local Communist guerrillas." The article by Jean-Claude Pomonti goes on to describe the newly formed Khmer Rouge provisional government and how the war is forcing peasants into the expanding ranks of the Khmer Rouge Army in the area. He writes: "Three former deputies of the Cambodian National Assembly, Mssrs. Khieu Sam Phon, Hou Youn and Hu Nim, who rejoined the underground several years ago and are considered the leaders of the Khmer Rouge, published last March 26 a declaration of support for Prince Sihanouk." The three ex-deputies urge "all our compatriots, in the city as well as the countryside, not to enter into the army or into the police to serve as cannon fodder for the American Imperialists and for the traitors to the fatherland, Lon Nol and Sirik Matak, to not pay them taxes, to not respect their savage laws, and to sincerely and resolutely unite in the National Unified Front of Kampuchea [Cambodia], to organize guerrilla forces of the Khmer people who are ready to receive you now." On April 21, in *Le Monde*, Jacques Decornoy reported that "a National Liberation Front of Kampuchea [that is, of Cambodia] has just been created. It already operates in certain 'liberated territories' and claims to carry out operations thanks to its 'liberator the Khmer Army.'". A correspondent for *Agence France Presse*

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quotes a cadre of the Front as saying that they had already "totally liberated" the province of Rattanakiri and that, "The following year, perhaps sooner, we will be at Phom Penh. But the Prince will return before that time." The correspondent reported that the "Khmer Liberation Army has vehicles and automatic machine guns taken from the Government Army." The Khmer Rouge, with the help of the NLF, seem uninterested at this point in capturing towns and cities (which will only be razed by US air strikes and armor). They are reportedly determined to create "liberated zones" *à la* Mao, from which they can put a guerrilla army of their own in the field.

Peking has taken careful note of all this. Headlines in the *People's Daily* now trumpet support for Sihanouk's government-in-exile (which includes such Khmer Rouge leaders as Hou Youn as Minister of the Interior and Peasant Problems) and for the Summit Conference of the Indochinese Peoples which was attended by Chou En-lai, Sihanouk, Nguyen Huu Tho (NLF), Pham Van Dong (DRV) and Prince Souvanouvong (Pathet Lao). On May 4, the *New China News Service* reported Chou as saying: "Armed with Mao Tse-tung's thought and tempered through the Great Proletarian Cultural Revolution, the Chinese people, will always give all-out support and assistance to the fraternal peoples of Cambodia, Laos and Vietnam in carrying to the end the war against US aggression and for national salvation." The day before at the Summit conference, Chou said that "the 700 million Chinese people provide a powerful backing for the three Indochinese peoples and the vast expanse of China's territory is their reliable 'rear area' *[hou-fang]*." "Rear area" is not a term the Chinese have traditionally used with abandon, inasmuch as it has the connotation of the word "sanctuary." Now it appears that they have decided to stake their prestige and support on Sihanouk. One can hardly believe that they would have given such unqualified support (after initially being so cool) did they not think that Sihanouk was capable of pulling a movement together back home.

It is increasingly probable that US-supplied South Vietnamese forces will remain in Cambodia indefinitely, for "the Lon Nol regime will need assistance," as Mr. Szulc notes in the *Times*, "to deal with guerrilla and subversive activities." That raises the question whether US commanders will not at some point be directing ground operations, but more probably air strikes, against Khmer Rouge "sanctuaries" (as well as those of the NVA and NFL) in a prolonged Cambodian civil war.

The Chicago Police Shoot-in

Justice Cops Out

by Nathan Lewin

In the early morning hours of December 4, 1969, two officials of the Black Panther Party of Illinois were shot and killed by Chicago police in an apartment occupied by them and seven other Panthers. More than two weeks later – after charges and countercharges had been hurled about in Chicago newspapers and in other public media (and after various private groups, including one headed by former Supreme Court Justice Arthur Goldberg and another consisting of five black congressmen, had held or threatened to hold independent panels of inquiry) – Attorney General Mitchell announced amid great fanfare that a high-level cadre of attorneys was being detailed from the Department of Justice to conduct a full investigation and present the facts to a federal grand jury. The grand jury was impaneled on January 5, 1970. The results of its more than four months of investigation, which produced no indictment, were revealed on May 15 in a 243-page document entitled, judiciously enough, *Report of the January 1970 Grand Jury*.

The *Report* slaps every wrist in sight – excepting that of the FBI, which is given an after-thought "acknowledgment," as a postscript to the signature of the grand jury's foreman, for its "invaluable investigative contributions" and its "cooperation, professionalism and proficiency." The document is, under all judicial precedents, nothing short of illegal. Unlike some state accusatory bodies, a federal grand jury has no authority to issue "reports" – its only function, as the highly respected District Judge Edward Weinfeld

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put it in a leading decision of almost two decades ago (*Application of United Electrical, Radio and Machine Workers of America, April 1953*) "is to determine whether there is enough evidence before it to support the charge of crime and so to create a 'case or controversy' which then must be turned over to the court for trial and final determination. If there is, the grand jury returns an indictment; if there is not, it remains silent." Judge Weinfeld enumerated the inequities which may flow from a grand jury "report" – based, as it is, on one-sided presentation of evidence, with no right of cross-examination or opportunity on the part of those investigated to produce rebuttal evidence. There is also a technical reason why "reports" are impermissible: proceedings before a federal grand jury are cloaked in total secrecy and no one – except a government attorney "in the performance of his duties" – is permitted to disclose what has happened in the grand jury room without first obtaining specific court approval. The *Report* of Chicago's federal grand jury publicly presents evidence in great detail (even citing page and volume number of the grand jury transcripts) and goes so far as to offer to the Illinois Constitutional Convention all "information in [the grand jury's] files" which might be relevant to the abolition of the "coroner's inquest" in a revision of the Illinois Constitution.

An even more important reason for denying to grand juries the authority to file such reports in place of an indictment (or an *ignoramus* – which is a refusal to indict) is that this alternative gives grand juries (and the federal prosecutors who direct them) an easy route for "copping out," for straddling the factual and legal questions and publishing self-serving justifications to cover their inability to decide. Any lawyer remotely familiar with the process by which felony charges are brought knows that more than 99 percent of the time, grand juries (which make decisions by majority, and not unanimous, vote) do what the prosecutors want them to do. In this case, the voluminous *Report* was plainly written by the Department of Justice attorneys, and no one has suggested that they did anything other than recommend to the grand jury that the *Report* substitute for an indictment. For the Department attorneys and the grand jury, it was much easier to criticize the Panthers for their "tactics and policies" and their refusal to cooperate with the federal investigation, and the Chicago police for its incredibly sloppy procedures and handling of the case than to turn to the proper business of the grand jury – *i.e.*, deciding whether individual officers of the State's Attorney's Police (a special unit responsible directly to the State's Attorney rather than to the Police Department) had violated federal statutes in their actions on December 4.

The facts are far more stark and simple than those in the average police-brutality matters over which the Department of Justice has jurisdiction. Compared with some of the more difficult cases – such as the intricate investigation needed to track down the perpetrators of the triple civil-rights-worker murders in Meridian, Mississippi – the Chicago investigation was literally child's play. The "who," "where" and "when" of the incident were basically undisputed. At 4:45 A.M. fourteen Chicago police officers whose identities were known entered the Panther apartment to carry out a search under a warrant for illegally owned weapons. (The *Report* contains no discussion of the legality of this nighttime search under Illinois law, although the affidavit quoted in the *Report* would plainly have qualified only for a daytime search under federal standards, which permit nighttime execution of a warrant only "if the affidavits are positive that the property is . . . in the place to be searched.") They emerged not more than 12 minutes later, after volleys of gunfire which resulted in the deaths of Panther leaders Fred Hampton and Mark Clark and in the wounding by bullets of four other occupants of the apartment who were each hit by several shots – one as many as five times.

The police version of the incident was that in attempting to execute the warrant, "the police were subjected to a deadly assault by firearms, which is a forcible felony, and exercised lawful means to overcome the assault." The first police accounts given by two of the officers on the day it occurred are described by the *Report* as "vivid" – with a footnote that "both officers acknowledged [before the federal grand jury] that this initial acount was inaccurate." All police accounts from December 4 to today amount substantially to an assertion that the occupants of the apartment had engaged in a gun battle with the police after instructions were shouted from the back bedroom to "shoot it out." The number of shots fired at the police by the occupants was not specified in the first accounts, but the *Report*'s careful analysis of the officers' final testimony – that given before the federal grand jury after all the available bullet fragments and shells had been collected and tested – concludes that if the police account were true the occupants must have fired "a total range of 10 to 15 shots, *at a minimum*." (The italics are the *Report*'s.)

The physical evidence found on the scene in three inadequate police searches, a more careful independent examination by a Panther lawyer (which was contemporaneously filmed), and an exhaustive series of searches by the FBI (which started 18 days after the event but still found approximately 20 percent of the total items recovered) produced not a shred of physical proof that more than one shot – a single rifle blast through the door from the entrance hallway to the

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living room – had been fired by any of the occupants. The *Report* traced a total of 83 empty shells and 56 recovered bullets – all but one of which were proved by ballistics evidence to have come from police weapons. Nor was there a single mark on any wall or piece of furniture (other than the hole in the living room door and in the hallway attributable to the rifle shot) which could have been caused by a bullet from a Panther gun. The *Report*'s conclusion from physical evidence is that the police fired "from 82 to 99 total shots" and that "only one bullet hole, one shell and one projectile – all associated with the blast through the living room door – can be identified ballistically as having been fired by the occupants." (One of its finer caustic touches is the *Report*'s passing comment on "the virtual impossibility of all the Panther bullets flying out the doors and windows" – a suggestion made seriously by the police witnesses, who also had reported to the press that the Panther shotgun pellets had "slammed into a bathroom door." The *Report* found "no bullet holes.")

Even assuming the Panthers had shot first (a disputable point since the angle of the shotgun hole in the living room door indicated that the door was at a 45-degree angle when the shot was fired), laboratory tests established that that single shot was met with a hail of approximately 100 bullets throughout the living room and two bedrooms. (The other side of the apartment – kitchen, dining room and bathroom – were substantially untouched.) Of greater interest than the number of shots, however, is the timing of the police fire and the targets at which they were aiming. For this the federal grand jury could rely on the police testimony, given pursuant to full constitutional warnings and after the officers had been told the results of the ballistics and other tests on the physical evidence.

The narrative of the officers' testimony, which covers approximately 20 pages of the *Report*, is a frightening one, all the more so because the officers obviously thought they were justifying their actions in testifying as they did. What it recounts is an act in four scenes, separated by three "cease-fires" announced by the police sergeant in charge. The first scene is one in which five of the officers break in the front door of the apartment, are allegedly met with the rifle shot through the living room door, enter the room, shoot and wound a girl who is sitting on a bed allegedly firing another shotgun at them (two shells which were at first said to have been fired by her rifle were subsequently identified as police ammunition), and kill Mark Clark, the possessor of the rifle which fired the first shot. At the time of the shotgun blast, three officers enter the back way, and three shots are said to be fired at them. One responds by firing a single shot. Then comes a "cease-fire." The *Report* notes that "all firing stopped when Groth [the sergeant in charge] called for the first cease-fire."

The second scene begins with a shot of uncertain origin which "sounded muffled and unusual" to a detective named Gorman, the only one to have been issued a submachine gun in preparation for the raid. At the time of the shot Gorman is standing in the living room with the others who have entered the front of the apartment. Gorman thereupon fires his machine gun through a wall of the living room and asks another officer "to look to see whether it went through" the living room wall to the adjacent bedroom. The other officer says that it did, and the physical evidence shows that, in fact, the machine gun bullets went not only through the first bedroom but into and through the second – in which Fred Hampton had been sleeping. The shots from the front are echoed by shots from officers who had entered the back way, and one – officer Carmody – runs past the Hampton bedroom, firing into it as he goes. Now comes the most cold-blooded recital in the entire *Report:* "Gorman then stitched the wall with his machine gun." End of second scene, with announcement of the "second cease fire." By this time, Hampton has been hit and is probably dead.

One of the occupants of the Hampton bedroom takes advantage of the lull to step out with his hands raised, but the cease-fire is immediately broken by "flashes" which the police see in one of the two bedrooms. Again Gorman fires his submachine gun into the wall (and through it to the bedrooms behind), and another officer does the same with a .30 caliber carbine. Others shoot into the two bedrooms. Officer Carmody advises Gorman not to approach the bedroom closest to the living room because "I am going to fire into this door in case somebody is behind there." Then comes the third (and longest) cease-fire, in the course of which two other Panther members emerge from the Hampton bedroom to surrender. Hampton's body is also "pulled out" by Carmody into the hall outside the bedrooms.

The third cease-fire is broken by an officer who goes into the Hampton bedroom to pick up arms and calls out that he is shot. (By negative inference, it appears from the *Report* that his claim to have been wounded was untrue.) Another officer thereupon fires into the front bedroom and, after rushing into the bathroom which is immediately opposite the entrance to that bedroom, sees figures standing between two beds (but sees no weapons in their hands) and fires above their heads. At that point, the possessor of the submachine gun, Detective Gorman, again appears on the scene, runs past the bedroom door firing all the while. He then places his weapon on automatic fire and, "in a low crouch charges into the north [front] bedroom." He empties the 30-round clip at two of the three individuals in the room, and all three emerge wounded. This ends the scenario, as testified to by the police.

Ignore, if you will, various minor inconsistencies in the versions told by the police officers between December 4 and their appearance before the federal grand

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jury. Assume also, taking their story at face value, that the rifle-shot from Clark's gun through the living room door was the first shot to be fired and was totally unprovoked. The evidence before the grand jury – *i.e.*, the combination of the overwhelming physical proof of ballistics and other scientific tests and the testimonial account of the officers – provides no justification for the machine gun fire and the other gunplay which followed each of the cease-fires. The physical evidence refutes the police assertions of repeated firing by the Panthers; and the only possible versions of the facts consistent with the scientific conclusions are that (1) the officers knew no shots were fired by the Panthers, (2) the officers imagined shots being fired, or (3) the explanation considered "most plausible" by the *Report*, "in the darkness and excitement they mistakenly attributed to the occupants the fire of other officers." The *Report* notes that the officers "rejected" this last possibility – quite wisely, one supposes, because it would make them out to be bungling fools and would also be inconsistent with the physical proof. For if the officers thought that their colleagues' gunshots were Panthers' bullets, they should have ended up shooting at each other, or at least firing some shots into the kitchen and dining room where the officers who had entered by the back way were standing.

Under any version of the facts, it is impossible to view the three rounds of shooting after the first cease-fire as anything but excessive police force in the execution of a search warrant. Here it is important to keep in mind that the federal statutes under which the grand jury was proceeding are not murder statutes (although they provide, since their 1968 amendment, that "if death results" a sentence of life imprisonment may be imposed), but are designed to protect individuals against willful deprivations by law-enforcement officials "of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States." The statute has been applied to a whole range of police or law-enforcement excesses, from participation by police in lynchings, to beatings or other violence (including the incitement of a police dog) for the purpose of obtaining confessions, and even to the action of a sheriff "in compelling victims to submit to the indignities" of drinking large doses of castor oil and being marched through the streets tied by a rope. The laws were designed, as the Supreme Court noted in its 1941 *Classic* decision, to reach "misuse of power, possessed by virtue of state law made possible only because the wrong-doer is clothed with authority of state law."

What rights "secured by the Constitution and laws of the United States" were violated here? The most obvious is the right of occupants of the Panther apartment, guaranteed by the Fourth Amendment to the Constitution, "to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." Is it conceivable that a shooting spree of the kind shown by this investigation – in which, to seize some sawed-off shotguns, police officers fired one hundred shots wildly about in response to a single rifle shot – was anything other than an "unreasonable" search? Even assuming that Mark Clark had initially fired a rifle shot as the police sought entry, what possible reason could there have been to shoot the other occupants, none of whom – according to the physical proof – used a weapon? Could not the search have been carried out reasonably – if under the circumstances, it had to be carried out at all – without firing any shots through the living room walls or into the other bedrooms? To be sure, most judicial precedents relating to the "reasonableness" of a search pertain to the informational basis upon which the search was made. But there are decisions which hold that the warrant must be reasonably executed – a constitutional command which the police officers in this "raid" (the term used repeatedly in the *Report*) were hardly obeying when they sprayed sleeping quarters with bullets.

Moreover, there is a constitutional right not to be killed and maimed by state officials abusing the power conferred on them by law. That right – phrased in terms of "summary punishment" or "deprivation of life and liberty" without the processes of the law – has been the basis for many prosecutions undertaken by

White Hunter

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the Department of Justice against those engaged in police brutality. There is no meaningful difference between police shooting randomly at those who are on premises being searched and who are not offering violent resistance, and police beating those who are arrested and surrender peacefully. In both cases, the action is under "color of law," and it violates the Constitution and the federal statutes.

One would like to know what view of the law was taken by the prosecutors who directed the grand jury. The introduction to the *Report* promises "a discussion of federal law as it applies to the facts found by the grand jury," but the body of the *Report* fails to deliver on that promise. (The only legal citation in its 243 pages is a footnote on page 219 which reads: "18 U.S.C. 241, 242, 245." These are the possible applicable federal statutes.) Does the Department of Justice take the view that, given the physical proof and the officers' testimony, the search was a "reasonable" one within the meaning of the Fourth Amendment? Does it believe that only if the police had entered the apartment with the intention of murdering Fred Hampton did they violate the federal statutes? Does its failure to seek an indictment in this case mean that shootings, even fatal ones, by state law-enforcement officers are not violations of federal law if the officers state that they subjectively believed that they were being attacked – even if there is no objective proof of violent resistance? The implications for the ongoing Kent State and Jackson State investigations are apparent. For if the explanations given here constitute a defense for gun-wielding policemen, we have placed the lives of innocent bystanders (such as some killed at Kent and Jackson) at the mercy of the nervous trigger finger.

Notwithstanding the overwhelming objective proof and the condemnation of the police officers by their own voluntary testimony, the Department of Justice did not recommend indictment and the grand jury did not independently seek to indict. Why? The expressed reason may be the most outrageous of the *Report*'s deficiencies. "The most concise conclusion," says the *Report*, "is that, in this case, it is impossible to determine if there is probable cause to believe an individual's civil rights have been violated without the testimony and cooperation of that person. This cooperation has been denied to this grand jury." This refers to the refusal of the seven surviving occupants of the apartment to testify before the federal grand jury. Initially, these witnesses refused to testify because they were under state indictment for attempted murder in the incident of December 4. The state indictments were dismissed when the FBI's ballistics tests – conducted as part of the federal grand jury investigation – established that two bullet shells on which the police relied as proof that they had been shot at turned out to have been fired from police weapons. Thereafter, three days before the *Report* was issued, the witnesses were recalled. They refused to testify again, this time (with one exception) making no claim under the Fifth Amendment but challenging the racial composition of the grand jury.

The *Report* details the refusal and prints, in full, the plea for cooperation of a black Assistant United States Attorney to one of the witnesses. Speaking of the survivors, the *Report* says, "The grand jury feels that it has exercised every possible means to obtain the missing facts which only these persons can supply." And the Assistant United States Attorney is quoted as having told the witness, "As I told you before, what this grand jury is considering is whether or not your civil rights were violated or the civil rights of the other persons in that apartment on December 4th were violated, and it is impracticable and almost impossible and it is really contrary to all procedures to go forward in any constructive way without having the persons who are aggrieved, the persons who were hurt, the persons who were subject to danger come in and tell what happened."

Expressing righteous indignation over the fact that the Panthers appear to be "more interested in the issue of police persecution than they are in obtaining justice," the federal grand jury concludes sadly that it cannot indict. Is it impertinent to ask why? Or to inquire what "missing facts" these witnesses can possibly provide? Or to seek a further explanation of the reasons that "it is impracticable or almost impossible and . . . contrary to all procedures" to proceed on the evidence which the grand jury possessed? The *Report* is silent on any specification of "missing facts" which the survivors could fill in. The identity of the police is known; the number of shots fired is established by the physical evidence. What conceivable fact could the survivors provide other than corroboration for their unsworn version that they fired no shots?

One need only consider the logical consequences of the principle laid down in the *Report* to refute it. If the police had killed all nine occupants of the apartment so that none was available to refuse his cooperation, would the physical evidence and the police testimony be insufficient? How was the grand jury worse off in its evaluation of the proof by the fact that seven survived but will not tell their tale to the grand jury? And if victims' cooperation in the investigation is to be the measure, who can speak today on that question for Fred Hampton and Mark Clark?

Among the *Report*'s unintentionally charming lines is its straight-faced conclusion, after ten pages of close recitation concerning the failure of all law-enforcement personnel to lock and seal the apartment between December 4 and 17, that "the grand jury is unable to conclude who failed to seal the premises." (Obviously, *everyone* failed to seal the premises.) By the same token it may be hard to determine who failed to do justice in the Fred Hampton case, but the roll of suspects now includes the Department of Justice.

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Stanley Kauffmann on films

Sympathy for the Devil

(New Line)

See You at Mao

(Grove)

The Ballad of Cable Hogue

(Warner Bros.)

More from Godard – newer work than the delayed *Two or Three Things* which I reviewed a few weeks ago. Now we get two of his more recent films, made in England in English.

Godard is, demonstrably, a puritan, but he understands the role of sex in revolution. *Sympathy for the Devil* begins with a highly sexual figure, Mick Jagger, recording the title song with the Rolling Stones. These recording sessions, full of the rock-Jagger-youth charge, are the base to which the film keeps returning, in a sort of rondo form, after interludes in which black men caress and murder white girls, the camera pans slowly over lurid magazines in a porno bookshop that is run in a militaristic manner, a porno political thriller is read on the sound track, and two mini-skirted black chicks interview a black militant. If there is a specific theme in this generally revolutionary film, it is the concurrence of sexual and political energy. A girl called Eve Democracy (Anne Wiazemsky) is interviewed in a manner that rambles physically and topically, mostly political-social questions that can be answered yes or no, and even here there are questions about the orgasm and love-making.

In other interludes Miss Wiazemsky wanders about London in a digger hat spraying slogans on cars and walls, usually neologisms that are reminiscent of Walter Winchell. ("Cinemarxism" reminded me of "cinemarriage".) There are readings of LeRoi Jones and Eldridge Cleaver and other black revolutionary material in a London automobile graveyard populated by armed and arming blacks. In the last scene, the wounded Miss Wiazemsky – wounded, I suppose by bourgeois society – staggers across a beach in front of spectators and falls across a camera crane. The crane, at Godard's visible order, then lifts her into the sky as the black flag of anarchy and the red flag of revolution flutter on either side of "Democracy's" body. All this material, and more, seems to rise from and tend toward the sexual springs beneath this film. (Originally, the title was 1+1. Against Godard's wishes, the producer put in a complete rendering of the title song *Sympathy* and used that title for the picture.)

Sympathy should be considered along with Godard's other English film, *See You at Mao*, which runs 50 minutes and which was made for the BBC but was never broadcast, presumably because it contains a long close-up of a girl's pubis. Revolution is the theme of *Mao*, too, though (despite the above) with much less emphasis on sex. Its style is similar to that of *Sympathy*: no attempt at narrative, even unconventional Godardian narrative; simply blocks of material, juxtaposed but not joined, with slow camera movements within each block, with some reprises, and with a good deal of disparate "wild" dialogue on the sound track. For instance, the opening sequence of *Mao* is a very slow traveling shot down the assembly line in a sports car factory, something like the traffic-jam sequence in *Weekend*. All through the shot, the sound-track is unrelated to the factory: it consists of antiphonal readings by a man and a woman of Maoist dicta, interspersed with the voice of a woman teaching a small child some harsh facts of British labor history. This simple disjuncture between eye and ear is evidently supposed to produce complex tension. Other scenes include one of the naked girl strolling about her flat, a Communist workers meeting, a students meeting, and fists bursting through paper British flags. The sound-track frequently reverts to the theme of lies and truth: bourgeois lies and revisionist lies (the Soviet Union, presumably) as against militant (Maoist) truth.

Both films use a collage method that has its antecedents in surrealism, whose essence was to project disconnected material at us in order to surprise and breach the expectations of rationality and thus to reach the truth that lies beyond the "sham" of reason. So there's a paradox. Surrealism would, not long since, have been the last method to be expected from a Marxist revolutionary. As a style, it has had little to do with agitprop or didactic politics or even with the puritanism that so often accompanies revolutionary fervor. Yet for Godard, who is more and more fiercely Maoist, the collage method in both these pictures seems much more temperamentally congenial than narrative, even the free-wheeling narrative of *La Chinoise* and *Weekend;* he seems more comfortable with a method of fragments than in fragmenting the conventional. And the suitability of this new method for Godard adds greatly to the conviction of his political intent in these new films. Political genuineness and this free form seem to have arrived simultaneously in him. Susan Sontag's comment that his didactic statements are "units of sensory and emotional stimulation" seems to be outdated. The ideas, no longer décor, are meant to affect us as ideas, not as mere sensory elements, and are meant to do so through this sophisticated esthetic mode. (The quality of those political ideas is a quite different subject.)

There is nothing in these films about revolution itself that is new. I was intermittently quite bored with both pictures. What was interesting some of the time in immediacy, and all of the time in theory, was that Godard has evolved a propaganda form that is shaped by the so-called New Sensibility – of the rock-television-cinema age. He is expressing pure and venerable Marxist doctrine in a style that is shocking to traditional Marxist esthetics.

Sam Peckinpah's *The Wild Bunch* was a Western that transcended the form: that is, at its best it pierced right to the forces in us that had originally called the form into being. There were elements of this penetration in his previous Westerns, *Ride the High Country* and *Major Dundee* (the cavalry variation). Now, in *The Ballad of Cable Hogue*, Peckinpah has used just the opposite approach: he has concentrated on the form itself. He has tried to make form and style his material,

(Continued on page 30)

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Reed Whittemore on verse

The Norton Anthology of Poetry

Editors: Arthur M. Eastman, Alexander W. Allison, Herbert Barrows, Caesar R. Blake, Arthur J. Carr, Hubert M. English Jr.

(Norton; $5.95)

It is best not to know much about the textbook business. The trade book business is bad enough. How many books and dollars, how many linotypists' hours, how many of the dear Lord's trees in Canada, how many salesmen, cocktail parties and tons of junk mail – all these numbers would add up to a scandal like the drug industry. Or, if you *like* big numbers, a tribute to American know-how. But the numbers wouldn't do much to evoke the sheer staggering *presence* of textbooks, train loads of them, gathering doodles: our educational system's horn of plenty.

As a teacher I am only familiar with textbooks in the tiny academic corner where I am. As a poet I am only familiar with the poetry texts I get *into*. As a father I know vicariously what students know about textbooks, which is that they are numerous, heavy and (mostly) creepy. But as an educator, ah, I am told constantly of our dependence on them, the variety available, the great strides made, etc., etc. – and I *still* think they are creepy.

Here is a new textbook, a poetry anthology, before me, maybe the biggest ever. I am in it. So are Chaucer and 158 others. I received $37.50 (my publisher took $37.50) (Chaucer received none) for my two short poems. The book has 1200 poems in it – "ample material for the study of major poets in depth and other poets in breadth." It has 1200 pages, weighs three pounds. Sixty lines to a page. Table of contents 38 pages. It is so big that it has six editors, of which one is described as the coordinating editor.

I know two of the editors (one of them was a student of mine, but I forget what anthology we lugged about then). Some of my best friends are textbook editors. I think these editors have done a creditable job. Anonymous won with 57 pages. Then came Chaucer (45), Pope (41), Milton (40), Byron (36), Browning (35), Wordsworth (34), Spenser (34), Tennyson (24), Eliot (T. S.) (23), Donne (20), Jonson (20), and Dickinson (19 – but 55 poems in 19 pages, which must be a record). And now, if any professionals are still reading, they may observe a few small eccentricities in the following sampling from the lower orders: Yeats (18), Whitman (16), Keats (16), Robert Lowell (15) (Amy and James Russell are missing), Blake (15), Shakespeare (14), Frost (13), Cummings (11), W. C. Williams (10), D. H. Lawrence (6), Wallace Stevens (5), W. H. Auden (4), Sandburg (2), Wilfred Owen (1).

I would not have anyone worry about these proportions; proportions are *never* quite right for any two teachers. Nor worry about the following notable omissions: Siegfried Sassoon, Kenneth Fearing, Dorothy Parker, Ogden Nash, Robert Creeley, James Wright, Harmon Killebrew. There are graver problems. Here is a giant bargain for $5.95 (competition is fierce). Assuming one simply wanted to buy a book or books of poems to *read* (books like this are not read; they are endured), one could find relatively cheap editions of the dead poets, but the live poets (the Norton anthology provides about 40) come high. So teachers are pretty much stuck with monster tomes as the practical solution to keeping the masses up-to-date on poetry. And living poets are pretty much stuck with being known by their poems in anthologies. And students are pretty much stuck with coming at poetry by the pound (the Norton anthology is enormously efficient, poundwise). It is all a nasty business except for the editors themselves – and possibly the production managers. These men may be cursed by thousands of students for doing it. They may even be poorly paid for doing it. But they will find something challenging about it while they are doing it, something connected with, but beyond, quantification – the challenge of the encyclo-

Our Town

This is the village where we grew
Our fathers and their sires in line
The trees they planted shade the view
And the white houses shine.

The families here had come to stay
The preacher was the parson's son
And if one brother moved away
We kept the solid one.

We tended order in the town
Our lawns were trim, our hedges green
And in the countryside around
The furrows straight and clean.

We went to church, obeyed the laws
And voted on election day.
The peaceful farms surrounded us
The tumult always far away.

And when the soldiers came to town
With drums and our flag overhead,
We watched them from the commons lawn
Until they shot us dead.

ANN STANFORD

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pedist, or of him who would stand angels on pins: the challenge of how to get everybody and everything important, valuable, beautiful and true *in*.

Nobody ever attains this goal (ah, but a man's reach . . . – p. 780), but the Norton people have come within a couple of light years. Anyway it's a lively enterprise, trying: maybe the spiritual justification for the whole thing.

Imagine turning out a big book like this to save the souls of six editors and a production manager. America, however, was always prodigal, and "much madness is divinest sense" (p. 847). Congratulations, team. And now we slaves can start lugging.

Russell Warren Howe: Those French

The Myth of France by Raymond Rudorff

(Coward, McCann; $5.95)

De Gaulle and the Anglo-Saxons by John Newhouse

(Viking; $8.50)

As a Sorbonne student a quarter-century ago, I was startled to read a phrase in *Le Monde* about *l'opinion anglo-saxonne*. I asked my French room-mate why the views of two long-extinct germanic tribes concerned the French cabinet. He explained that in French *anglo-saxon* meant "British and American." Since de Gaulle, tongue-in-cheek use of the word is current in English-speaking countries and elsewhere. Even French Africans condemn the radical ideas of their English-speaking neighbors as coming from *l'Afrique saxophone*.

It is well to recall that England, once named for the Angles, was colonized by Latinized Danes, and became 40 percent Latin, and barely Angle (or Saxon) at all. Rudorff's excellent book about French myths asserts that it was as psychologically necessary to France that Britain, the Norman-Viking-Celtic home of freethinking liberalism, should become germanically "Anglo-Saxon" as it was that militaristic, authoritarian France should become, in myth, a humanitarian paradise of arts.

Rudorff forbears from tracing France's obsession with the profession of arms to Norman times, when Gallia became the place from which the far-ranging Huns and Goths never departed. He sees it effectively enough in literature, in art, in the Revolution, in the blood-curdling national anthem. He sees it taunted and provoked in two centuries of French defeats: Moscow, Waterloo, Sedan, 1916, 1940, Dien-Bien-Phu, Algeria. Small wonder that revenge, and regilding France's military reputation, have been the themes of France's 19th and 20th centuries. De Gaulle might speak of France's *rayonnement* (radiance), but it was the radiance of Hiroshima that he dreamed of recreating. In this, he was heir to the writers he admired, especially Maurras, and to a bloody and abject imperial hurrah. Says Rudorff:

> No country's colonial history is edifying. France's is simply more tragic than most others. . . . French *rayonnement* throughout the world has had a smell of gunpowder and high explosive from the 1830s until the 1960s. . . The tortures that Frenchmen were practising in Algeria in the 1950s were already being prac-

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tised in Indo-China in the 1930s in similar circumstances.

North Vietnam's General Giap lost his wife and infant child to French prison brutality during World War Two. Repression was the worst in countries with the most developed civilizations – Madagascar, Morocco, Cochin-China. Yet de Gaulle believed so deeply in France's "genius which has ever made her the . . . champion of human liberation" that within months of pulling out of Algeria in 1962 he had begun to convince himself that he had been sending Frenchmen to die there for the past four years in the firm intention of losing the war.

As Rudorff stresses, France has been just as brutal with its own people seeking "human liberation" as it has with the lesser breeds outside the law. Repression of the Paris students in 1968 was gentle compared to the way the French Army cleared the city's streets of the manifesting poor at various times in the last century.

The whole theme lends itself to sarcasm, as Rudorff's chapter titles ("Missionary in Arms," "Mother of Liberty," "The Capital of the Spirit") indicate. The cosmopolitan world of the Left Bank lives precariously in a city renowned for anti-Semitism, racism and xenophobia. The angry French liberals are the product of a strict, Puritan, middle and lower-middle class upbringing; censorship of book and film remains severe; a hidebound university system has produced artistic experimenters of convoluted tediousness. And the prejudiced majority is far from silent:

> Whereas the English arch-bourgeois may be seen as a figure of fun . . . to be partly excused because of his . . . general ignorance and stupidity, the French bourgeois will be dangerous and vicious through greater rationalization and conscious choice. Where the Englishman will lapse into semi-articulate confusion when asked to justify his prejudices, the Frenchman will be fluent. The one will dislike because of his inability to comprehend, the other will hate as a matter of deliberate principle.

It is not hard to show that French courts are criminally slow and often deliberately unjust, particularly on procedure, or that France has the crummiest schools and the dirtiest hospitals in Western Europe, or that the hypocrisy of "liberation" comes from a country with a radio and television system almost as government-controlled as Russia's. Rudorff notes that:

> There has been nothing (on French television) to remind viewers that theirs is still a country with anguishing social problems, a country with a large poor minority, some of the worst-paid hospital staff in Europe, the highest hospital expenses, and a tuberculosis mortality rate of 18.4 per thousand compared with 14.4 in Italy and 6.6 in Britain, a hideous housing problem, deep social divisions and dangerous prejudices which may erupt into violence. There have been none of the spontaneous debates and forums with persons involved in important social problems speaking their minds as in England with its admirable documentaries and special-feature programs on mental care, living conditions in modern housing estates, drugs and the young, sexual problems and local political issues.

Not all will agree with Rudorff's belief that France's mathematical architecture and urban planning is unbeau-

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tiful, or that the Louvre is hideous. His accusations of negative depravity in art undoubtedly have English and American equivalents, although the xenophobic seam in much of French art is perhaps unique. Rudorff overstates his case: it is not that Britons are better – merely less hypocritical and better governed. In the arts, it is the inbred nature of much of the Paris intelligentsia which makes it so self-satisfied with its purposelessness. Like the mythical bird which RAF pilots toasted, much of intellectual Paris goes round and round in ever-decreasing circles until it disappears up its own backside.

John Newhouse does not accuse de Gaulle of hypocrisy – although this is implied in his book. But he charges him with practising a policy based on France's belief in the "Anglo-Saxon" myth, and on the xenophobia which that inspires. His main aim was "to take France out from under Anglo-Saxon domination" and restore it to its Louis Quatorzian role. But exhausted as they were by war and, "obsessed by Algeria, the French were scarcely ready for 'endeavors' of 'sweep.'" De Gaulle, says Newhouse, had no illusions about his countrymen.

Like George Bernard Shaw, if for different reasons, de Gaulle felt France was a great country – too good for the French. Above all, he hated Britain and despised America: "De Gaulle sometimes spoke of America as the daughter of Europe, but France has influenced America's development less than any other major European country and, unlike the others, feels little kinship with this European offspring."

Newhouse's book is a scholarly study in brilliant mischief. The two fronts on which de Gaulle fought were nuclear strategy and the Common Market. The enemy generals whom he bloodied were principally Kennedy and Macmillan. With chesslike skill, de Gaulle could play an array of African presidential pawns or an Adenauer bishop. He won a battle but not the war.

The principal stake – nuclear weapons – was essentially an illusion, since nuclear autonomy of any sort was impossible for France. Kennedy, as Newhouse notes, "preferred the status quo, and had little appetite for the various schemes and placebos designed to relieve Europe's nuclear frustrations." Khrushchev was similarly unconvinced of the general's grandeur: Sorensen has recorded Khrushchev's comparison of de Gaulle's influence over Adenauer to the peasant who caught a bear and could neither bring it back nor make the bear let go.

History being the two-timing tart it is, one *chiênlit* leads to another: de Gaulle's superb irreverence for common sense tripped on what was little more than a student rag – it barely lasted long enough to be called a movement. The 1968 riots did not end his regime, but they prepared the end. Newhouse writes de Gaulle's political epitaph when he says: "Through the years de Gaulle ignored the substance of power in order to keep faith with its shadow."

Television

Sesame Street

"Sesame Street," as everybody knows, is an amazingly popular children's variety show appearing on educational television. Judged by the standards of most other programs for preschoolers, it is imaginative, tasteful and witty. A personable young black high school teacher named Gordon presides, introducing children to an appealing big-city block whose resident, many-colored children come right off a UNESCO poster. There is a fanciful seven-foot tall bird, a grouch who lives in a garbage can, and a splendid troupe of puppets, the Muppets. There are brisk "commercials" for numbers and letters of the alphabet ("This program was brought to you courtesy of the letter L") a story reading, slapstick vaudeville comedy, puppet skits, a film on sights and sounds of city and country, and a game or two to reinforce some lessons of the commercials.

"Sesame Street" aims to teach the names of letters, their sounds, the sequence of numbers from 1 to 10, backwards and forwards. It imparts a variety of general information – where milk comes from, what sounds sheep make, what a horse looks like. It tries to teach vocabulary and "concepts" –

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same and different, in and on, squares, circles and triangles. It emphasizes rudimentary kinds of classification: what sound goes with the typewriter, why a harmonica is like a flute.

According to the conventional lore, these are the skills (tested by what are called "Reading Readiness Tests") that "deprived" children lack, which is the reason why they have a hard time learning to read in a typical school. "Sesame Street" is in effect a televised reading readiness program.

But as many a first grade teacher has discovered, the children most likely to have trouble learning to read don't really see the connection between learning letters and reading. They have had little experience with books, are often hazy about what reading is, and don't understand that speech is divided into words, that words are composed of letters, and that what they say can be written down and read. It would help if they could follow the lines of print in a storybook with their finger as the story is read aloud. But on "Sesame Street," as in most schools, the adult doing the reading only shows the kids the pictures. Even though imaginative presentations like "Sesame Street's" can make learning letters easy, the learning is still mechanical, like memorizing the Lord's Prayer in Polish. All the grown-ups on "Sesame Street" keep insisting that you have to learn your letters in order to read. Yet most children read several easy first grade books before they master the alphabet; the confidence they get from reading makes learning the letters much easier.

What is missed also in "Sesame Street" is the recognition that many kids fail to learn because they are tired, hungry, or frightened. The joyless atmosphere of the school classroom, the routines, the incessant turnover of teachers and pupils, make school a poor place to learn anything. They forget what they already knew. Children capable of using "on" and "under" correctly in ordinary conversation get them mixed up on a readiness test. This is why excellent remedial reading programs often have such slight long-run effects: when they have eliminated the symptoms of a reading problem they return the child to the classroom where he wasn't learning, and he slips back into a pattern of failure. "Readiness" isn't the problem.

Since the schools are failing to teach

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basic skills like reading, children should be given a chance to pick them up elsewhere. A television program aimed at actually teaching reading makes a lot of sense. The Children's Television Workshop, the group that created "Sesame Street," is reportedly working on such a problem for older kids. This should tackle reading directly, instead of winding around the dubious byways of readiness training. Learning letters, for example, need not be mechanical if a child is also learning exciting words and phrases, if he sees that phonics helps him read labels on cereal boxes, and signs in stores, streets, and doorways. Reading is like talking: you master it by doing it. A baby doesn't know what "mama" means the first time he says it, and most preschoolers don't see the point of the alphabet until they have started reading.

In part we created our national reading crisis by insisting that all children must start reading at age six, when the proper age for any given child might be anytime from four to nine. By emphasizing school skills with the very young, "Sesame Street" may make a bad situation worse. A mother who has seen so much effort pumped into pre-reading education cannot help being over-anxious about reading when instruction begins in earnest.

For the few American preschoolers who have plenty to fill their day, this early emphasis on school skills makes little difference; they won't allow interesting, important things like building a tree house or playing dolls to be crowded out. But most preschoolers aren't that lucky. Little children of all social classes are cooped up inside all day with few playmates and little to do. Few homes, whether in slum tenements, luxury apartments, or suburban subdivisions, provide youngsters' minds or bodies with the exercise they need. You can see the results in your local supermarket: irritable small fry, exhausted and bored by inactivity, driving their mothers crazy.

A good television program could give these children and their mothers a lot of help. God knows, little kids watch TV endlessly. For unsettled children, never in one classroom long enough to learn much, it must be one of the few constants of their existence. And TV has advantages over the conventional school. It is impersonal, and therefore it doesn't make children afraid of failing. It demands no answers. Schools

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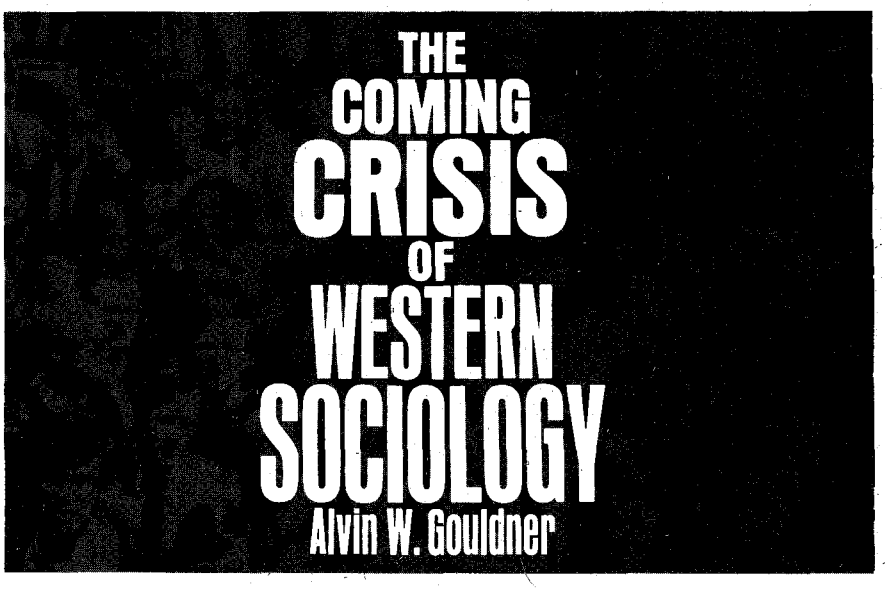

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usually assume that a child doesn't understand what he can't put into words. Yet most people of *all* ages know more than they can explain coherently: that is why *Scientific American* has to hire professional writers to put the findings of brainy scientists into clear English. More than the schools, TV works from children's interests: a program can offer many things without making the absurd demand that the child be equally interested in everything. And, unlike special educational programs for the poor, TV programs bear no social stigma; they are for all children.

One of the most promising things about television, educationally speaking, is how parents take teaching cues from it. You see this among "Sesame Street's" audience: the show convinces many proud parents that their kids *can* learn a lot. The trouble is that "Sesame Street's" brand of learning is like school's: passive and sedentary. Children settle into a certain hypnotic, glazed trance when they watch TV, and "Sesame Street" is no exception. In general it is poor pedagogy to keep very young kids sitting like sponges for an hour daily. Some kind of physical or "movement" education on "Sesame Street" would be a welcome relief, perk the kids up, cultivate their formidable talents for physical awareness and self-expression. Preschoolers live in an adult world, but they aren't very good at most of the things that world values. Of course they need to break new ground, develop adult skills, talk better, and ultimately learn to read and write. But it is important that their education also include the things they do best, particularly at home. Otherwise talents atrophy without anyone realizing the loss.

Intellectually, the preschoolers' greatest asset is curiosity. Yet only a few years later many children fail to learn because they have so few questions to ask about the larger world. Many read well enough to learn a lot from books, if only they had questions to pursue. The boredom is especially acute among certain middle class children: in many a crack suburban school, even six-year-olds are jaded.

It is hard to know just why curiosity fades or kids become afraid of questions. Partly, I think, it is because they lose confidence in themselves as independent investigators, or fear the teacher won't like to be pestered with questions. When a baby wants to know something – can the cup make a noise, does the radiator move – he acts; an older child usually asks his mother. Both at home and at school, questions get all mixed up with getting attention. There is no easy way out: you can't give a four-year-old a self-directed curriculum through which he discovers "why we breathe." But a program like "Sesame Street" could help by giving kids a sense that the world is an interesting place to investigate, that their questions are worth pursuing.

All children, for example, wonder how their bodies work. They ask "where does food go when its eaten?" "How do we talk?" "What happens if I forget to breathe?" "Sesame Street" has a film on bodies, but it bypasses all such matters. It says exactly what children already know: legs are for running, eyes are for seeing, the stomach is "something like a sack."

Solid interesting information feeds curiosity, providing that children are not *obliged* to attend to it or to react immediately. Yet on "Sesame Street" children are not so much told about new things as they are taught ways to categorize and rearrange old things. A wheel is a circle, and so is an O, and so is a grapefruit. A horn, a harmonica, and a police whistle are the same because they all make a noise; a banana is different because it's a fruit. A manhole is presented as an example of a circle, not as a fascinating, mysterious hole to explore.

Good preschool teachers are dismayed that "Sesame Street" provides so few challenges to children. Its notion of intellectual development is limited to some mechanical operations – learning numbers and letters, pigeon-holing circles, triangles. Nearly every lesson, film, game or puppet skit is repeated over and over so children can learn them by heart. Many kids enjoy singing along and knowing what will come next, and there is a place for repetition on any children's program. But learning to chant a jingle should not be confused with understanding the lesson it was designed to teach. Just as kids can memorize the multiplication tables without realizing that 40 is a bigger number than 36, so skeptical parents watching "Sesame Street" say that although the viewers can now count backwards from ten, they don't seem to understand any more about numbers than they did before.

Good teachers, however much they

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are interested in developing skills, take some of their cues from class. They listen and respond. By contrast, everything that happens on "Sesame Street" is planned in advance by adults who stick to the lesson no matter what children around them do or say. A little girl is identifying geometric shapes with Susan; suddenly she announces she has a toothache. "Oh, do you?" says Susan, and pushes right on with the lesson. Like the other regular adults on "Sesame Street," Susan always behaves as though she were teaching a whole big class, even when she's huddled with two kids. As Gordon reads a book aloud, two boys get very interested in one particular picture. They want to talk about it, but Gordon drives ahead with the story reading just the same. Children never stop Gordon on the street to ask him a question or joke or get help with a game. Grown-ups initiate everything. And their concerns are trivial. They ask kids what various toys have in common (all the toys – snore – have something to do with transportation). They never ask interesting questions like why do people kiss? Why does it rain? Worse, the adults never leave the children with anything to talk about and develop on their own.

This is exactly what parents don't need. Adults should set the environment for learning, of course. Their job is to introduce children to aspects of the world about which children know nothing. But parents should realize that a child's curiosity is the teacher's most reliable guide, and that teaching that responds to questions and interests is most likely to succeed. In actual fact, most parents are better teachers than they know. A function of a good television program would be to build on their strengths as, for example, with all its flaws, a TV program called "Misterrogers Neighborhood" tries to do. If a mother takes her child to the park and they talk about that, "education" is going on. Parents know this, but more would be reassured if the experts would concede that this is more important and enduring than learning the alphabet.

The present generation of preschoolers watches an average of 54 hours of television a week. This must give them an extraordinary exposure to standard adult English and opportunities to see many things that would otherwise remain outside their experience. But on television – and "Sesame Street" is no exception – American children don't come into contact with first-rate things. They need good theater, myths, music, films, rich stories and experiences that provide some standards to set against other experiences. Pete Seeger's occasional appearances on "Sesame Street" left the rest of the shows looking very drab. Why, with people like Seeger and Mahalia Jackson, are there so few good songs for "Sesame Street's" audience to learn by heart?

All this makes it sound as though "Sesame Street" were no fun at all. But it is. The Muppets, the puppet troupe, have extraordinary charm and individuality, and they talk in normal, unaffected human voices. The show is always fast-paced and bouncy; there are a few fine films – a lovely one of a boy exploring a seashore and a nice photo essay on water. Even the best things, however, don't touch strong emotions, or extend fantasy. The camera flits from subject to subject, animal coverings – skin, fur, fish scales – or city noises or rectangles.

Nobody on "Sesame Street" is ever genuinely miserable, terrified or exultant. Ernie, the puppet, is disappointed when the wonderful cooky Monster eats all his cookies, or he's lonely when everyone else is busy, but the problems cure themselves. When Mr. Hooper, the local storekeeper, and Gordon fight about a pile of trash, they make it clear that they aren't really mad, it's just a joke.

All the burlesque and slapstick have one important effect. They make adults (including me) laugh. Adults really enjoy "Sesame Street." An astonishing number – including those without children watch it. This is not without its effect on youngsters: young Bill knows that Mother is pleased if he prefers "Sesame Street" to "Batman." But there is something to be said for "Batman," however reprehensible his moronic violence. "Batman" evokes real emotions and provokes real fantasy. "Sesame Street" doesn't. An excellent illustration of why it doesn't – which is germane to its emphasis on "Reading Readiness" – is the children's

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literature it puts forth. It's bland beyond description. The lions in the stories Gordon reads are the sort that go to barbershops and eat cake at birthday parties, not the kind that eat up little girls. If Manuel's bird disappears on page 9, it is sure to turn up by page 12. A little of this thinness goes a long way: children need the strong, scary stuff of old English and African fairy tales.

Sedulus

Correspondence

The Vote at 18

Your editorial of May 2, 1970, on the problems of enfranchising America's 18-, 19-, and 20-year-olds by statute, rather than constitutional amendment, appears to be based on misapprehension of the constitutional, procedural, and political factors involved.

You characterize the Senate's addition to the House-passed Voting Rights Act of 1970 as "legislation by rider." This seems to imply that elimination of unreasonable age discrimination by states in setting voter qualifications has nothing to do with "voting rights." The fact is that the Senate-passed version of the Voting Rights Act of 1970 strikes at several forms of irrational discrimination in setting voting qualifications: racial discrimination, literacy tests, residency requirements, as well as age limitations. Moreover, the authority upon which discrimination against 18- to 20-year-old citizens is to be eliminated is precisely the same as the Congressional authority for elimination of discrimination based on race, literacy, or residency – Section 5 of the Fourteenth Amendment. That section specifically empowers Congress to act by *statute* to guarantee all citizens "equal protection of the laws." Thus, the statement that it is "legislation by rider" for the Senate to decide to deal with age discrimination in the same bill that it deals with race, literacy, and residency discrimination is inaccurate.

Next you argue that because constitutional lawyers and scholars disagree on whether Congress's authority under Section 5 of the Fourteenth Amendment extends to elimination of age discrimination in voting qualifications, the Senate's action is "of dubious constitutionality." Perhaps, but so then was the original Voting Rights Act of 1965 of dubious constitutionality, and the Civil Rights Act of 1964, and much other significant legislation in which Congress for the first time undertook to exercise a power it believed the Constitution granted to it.

It is important to note here that you use "dubious constitutionality" as if Congress is violating some constitutional *prohibition* on governmental action – such as the First Amendment's prohibition on laws regulating speech, or the Fourth Amendment's prohibition of unreasonable searches and seizures. In fact, however, what we are dealing with is not a prohibition but an explicit constitutional *grant* of power to Congress. Section 5 of the Fourteenth Amendment says that "Congress shall have power to enforce, by appropriate legislation" the amendment's equal protection guarantee. The Supreme Court has made clear that in deciding what is "appropriate legislation" it will give wide latitude to Congressional findings of discrimination and denial of equal protection.

In *Katzenbach v. Morgan*, 384 U.S. 641 (1966), the Court said in upholding part of the Voting Rights Act of 1965:

> It was for Congress, as the branch that made this judgment [that an English language requirement for voters violates equal protection of the laws], to assess and weigh the serious conflicting considerations. . . . It is not for us to review the Congressional resolution of these factors. It is enough that we be able to perceive a basis upon which the Congress might resolve the conflict as it did.

Thus, in eliminating irrational discrimination against 18-, 19- and 20-year-old citizens, Congress is exercising a power which the Constitution explicitly grants to it, and which the Supreme Court has said Congress shall be given wide discretion to exercise.

Finally, you imply that if Congress attempts to enfranchise our 18- to 20-year-old citizens by statute, it will place an intolerable burden on the Supreme Court to validate this exercise of Congressional power. In fact, it is high time that Congress began to exercise the power which it was intended to have when the Fourteenth Amendment was passed. In the school desegregation cases, in the reapportionment

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cases, and in other landmark decisions based on the equal protection clause, Congress has left to the Court the agonizing decisions about fundamental questions of social and political policy which – under Section 5 – Congress should have been making. Time and again the Court made clear its preference that Congress make these decisions, and time and again Congress refused, eventually forcing the Court to make its own determination of when equal protection has been denied. It is precisely this abdication of Congress's responsibility under the Fourteenth Amendment which has forced the Supreme Court to make controversial and divisive policy decisions which properly were the primary responsibility of the Legislative Branch. By making a congressional determination that denial of the vote to our 18- to 20-year-old citizens denies them equal protection of the laws, Congress would actually be lifting from the Court an unwanted burden which it has had to bear for too long.

What will really be at stake when the House of Representatives considers the Senate-passed version of the Voting Rights Act of 1970 is whether we finally exercise our long-avoided responsibility to implement equal protection of the laws – based on congressional findings that it is being denied – or endanger both the extension of the 1965 Voting Rights Act and the 18-year-old vote by sending the bill to conference with hostile Senate conferees.

Abner J. Mikva
Member of Congress

Basis for Negotiations

Sirs:

Your note "Russians in Egypt" (May 16) suggests that (1) the Palestinians are intractable and (2) now "this country's sole option is to help Israel defend herself." I would like to respond to these views.

Mohammad Rashid, chief of foreign relations for Al-Fatah, states in an interview with *Newsweek:* "We are in contact with many people around the non-Zionist Israeli and non-Israeli Jews. We are offering them, not a blood bath, not a continuation of hostilities, not throwing them in the sea and the Arabs in the desert, but concrete proposals for a new state that would bring lasting peace to the Middle East. We are asking the Jews to build with us a country where we could live together, where our two communities would interact and mutually adjust to each other's idiosyncrasies. What could be more reasonable? . . . We Palestinians have taken the extraordinary step of saying to the Jews: 'Okay, let's turn over a new page of history and give you guarantees about the future.' Not only did the US press virtually ignore this crucial policy decision but it met with little response from the Jews" (*Newsweek*, April 27, 1970, pp. 50-53).

Compare this to the following statement by an Israeli dove, Shimon Shamir, head of the Department of Mideast History at Tel Aviv University, as he speculates about the future in a parallel interview: "Even though Palestine and Israel will be two separate sovereign entities, they will share the same land. Palestine is one land. Therefore this entails much cooperation in economic and security matters. Hopefully, long-term, both states will evolve into some form of confederation. We are faced with two genuine national movements and both have to be accommodated in one land" (*Newsweek*, April 20, 1970, p. 57).

These positions are not identical but they do constitute a viable basis for negotiations because they agree on two points: (1) the status quo must be changed, (2) the Palestinians must be included.

Secondly, in Palestine and Vietnam we face the same problem: working out the destiny of a piece of land in fairness to all its inhabitants. The ebbing of colonialism has left behind borders and governments which do not fit the people. Negotiations can sort things out – military force cannot (most of us are learning this in Southeast Asia).

There will be no security for Israel until the Palestinians are justly dealt with, as the United Nations periodically demands. The "war" with Egypt serves as a fine camouflage for Israel's continuing refusal to do this. Maintaining a balance of power is maintaining the status quo. Let the United States back Israeli doves, not Golda Meir and her hawks. War is dead.

John Hartshorne
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Kauffmann, *from page 19*

and in my view the result is a disaster.

With his scriptwriters John Crawford and Edmund Penney, Peckinpah has aimed at creating a ballad, a film that consciously celebrates its lyric tone and idealized statements, but the effort is so self-conscious and cute, so ill-suited for Peckinpah, that the result is a series of smug contrivances. Over an opening song – a bad one, too – an old prospector named Hogue is abanddoned by some partners and, almost dead of thirst but refusing stubbornly to die, discovers a water-hole near a stage trail. Through the years he builds that hole into a prosperous stage-stop until he is killed – aha! – by one of the first motor cars.

There are two other principal characters: a lecherous fake preacher, one of those carpentered-up eccentrics that recur in pretentious Westerns, played by the English actor David Warner, who, since *Morgan*, has gained neither in charm nor credibility; and a prostitute with a Heart of Gold, as well as other gold-producing parts. She is played by Stella Stevens, who has very much less appeal than, but all the talent of, Kim Novak. Jason Robards is Hogue. From the first moment, he is physically phony, because this grizzled desert rat has a set of teeth that would be too white for a TV denture-cleaner ad. On this initial phoniness, Robards builds, with empty gusto and stale actor's rhetoric, and turns this intended folk ballad into a ham salad.

Peckinpah helps very little. He was not attempting the reality-past-realism of *The Wild Bunch*, but this hardly excuses such japery as having the face on a five-dollar-bill wink at us or shoving his camera down Miss Stevens' bodice or between her legs to hint that Hogue wants her; nor does it excuse the banalities of encounter and surprise, the stilted opening and close, or the general lack of spirit and flourish that successful artificiality needs.

Anyone can see what this film is supposed to be about: verve versus viscosity, man versus mass-man, mortality under the timeless sky – and there is even a hint of the future ecological crisis. But a choice of good themes is not the same as making a good film, surprising as that platitude still seems to be to many. Peckinpah is a truly but narrowly gifted director with an instinct for violence, some conception of space, and of human character weathering within that immense space. He handles these matters well when he looks at them grimly, and I hope he soon returns to the grim vein. In his hands, the light fantastic is leaden.

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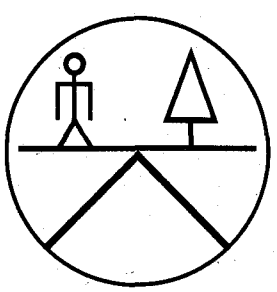

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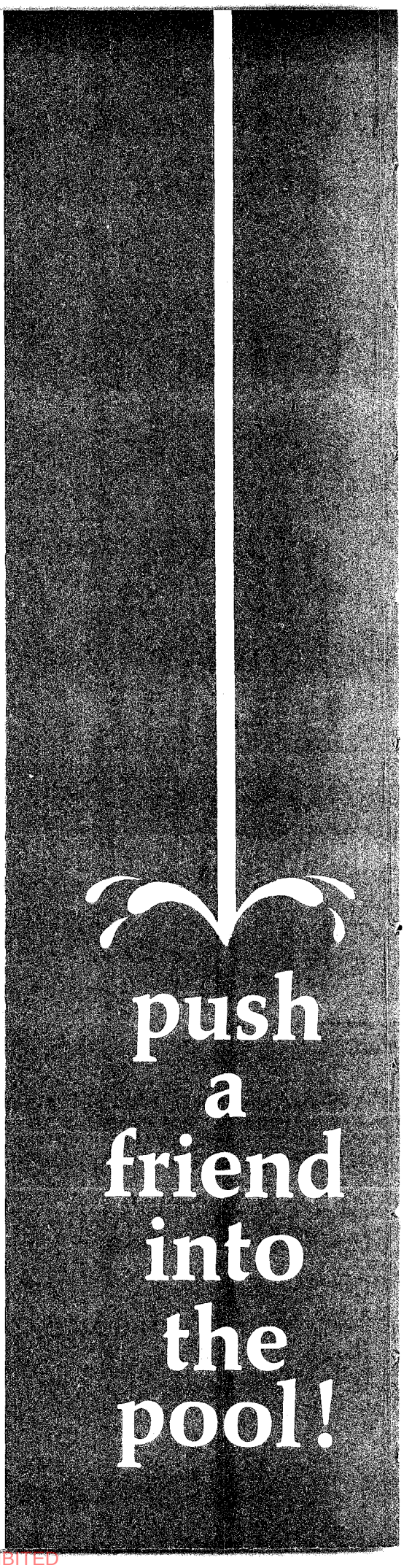

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What you should know about this summer's power crisis

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This summer, our nation will face its most critical power shortage since World War II.

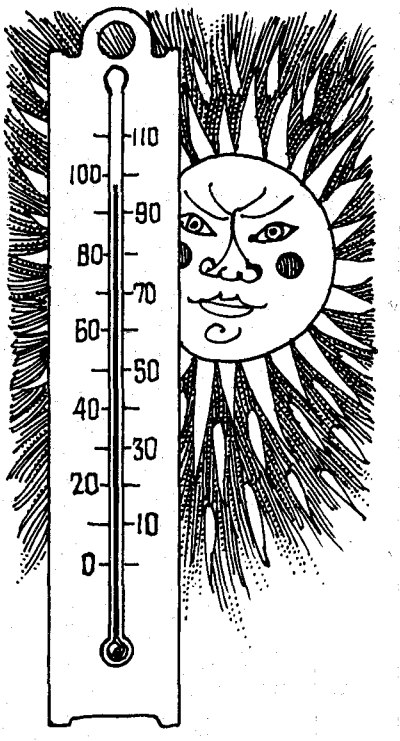
Average reserves available nationwide to meet hot weather's demand peaks will be four per cent below the "desirable" level. Any unexpected development, such as a prolonged heat wave, could be catastrophic.

Why is our country in this bind?

JE 1'70

The chairman of the Federal Power Commission, John N. Nassikas, has pointed out that one of the most important reasons is that "...increase in demand has outstripped the original forecast upon which utilities planned their system." Other national power experts agree. Until recently, predictions were that power needs would double about every ten years. Now, indications are that this demand may double every 6½ to 7½ years. That means reserves are getting lower and lower.

Industry efforts to catch up are complicated by other factors. Fuel supplies, particularly coal, are short; skilled labor is scarce; equipment delivery dates are delayed; component fabrication is too often faulty; transmission facilities are not adequate. Add to this questions of how to increase power supply without increasing environmental pollution.



While it's useful to know how the present situation came about, our immediate problem is moving ahead with corrective measures.

Consumer-owned rural electric systems...serving less than a tenth of the nation's total population scattered over seven tenths of the country...came into being during the great power crisis of the 1930's—when most of rural America had no electric light and power.

Today, all America faces a power crisis. While large urban centers are facing the worst shortages, the implications of this crisis are national in scope. We of the nation's rural electric systems—systems largely dependent on commercial suppliers for power—are actively seeking to bring about solutions we believe to be workable.

To meet the shortage of power in particular areas, we have long pressed—and will continue to press—for better regional and national planning...regional and national pooling of power resources—a nationwide grid to take advantage of different load-peaking times in different parts of the country. Such a grid would speed one area's surplus to fill another's deficiency.

To meet the shortage of power capacity we have long pressed—and will continue to press—for expanded and additional generation and transmission facilities. Rural electric systems own only 1½ per cent of the nation's total capability. This must be beefed up to help the electric industry as a whole meet our country's needs for power...in keeping with the need for healthy, livable environment.

To bridge the gulf of misunderstanding between the concerned public on one hand and the concerned electric industry on the other, we have urged—and will continue to urge—that environmentalists and conservationists be included in a blue-ribbon planning group of state and Federal regulators, along with representatives of all segments of the power industry. Our national government...our country...needs the guidance that such a group could provide.

We are in a very tight power situation, which could get much worse. We of the country's rural electric systems are determined to do everything we can to avert this crisis. Mobilizing our national will to solve the problems is the first order of business.

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